United States Court of Appeals

for the Second Circuit

SUPPLEMENTAL APPENDIX

75-4087

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SAMUEL H. SLOAN, d/b/a
SAMUEL H. SLOAN & COMPANY,

Petitioners,

v.

SECURITIES AND EXCHANGE COMMISSION,
RAY GARRETT JR.,
PHILIP A. LOOMIS JR.,
JOHN R. EVANS,
A. A. SOMMER JR.,
GEORGE A. FITZSIMMONS,

Respondents.

Petition for Review of an Order of the
Securities and Exchange Commission

SUPPLEMENTAL APPENDIX

B
P/S

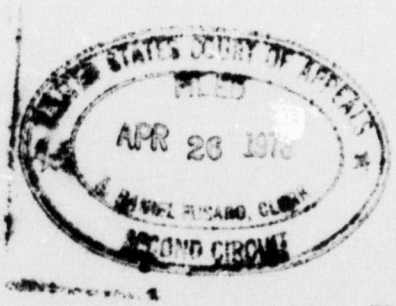
DAVID FERBER
Solicitor

MICHAEL J. STEWART
Assistant General Counsel

FREDERICK B. WADE
Attorney

Securities and Exchange Commission
500 N. Capitol Street
Washington, D.C. 20549

Telephone: (202) 755-1286



6

INDEX TO SUPPLEMENTAL APPENDIX

Excerpts from Transcript of the Trial — A 60

October 30, 1972	[Tr. 19]	A 60
October 31, 1972	[Tr. 184]	A206
November 1, 1972	[Tr. 363]	A347

Answer of Samuel H. Sloan, d/b/a Samuel H. Sloan & Co. — A400

Petition for Review of Initial Decision, dated May 8, 1973. — A404

Letter from Robert W. Taylor, Esquire, to Ronald F. Hunt, dated June 19, 1973. — A407

Memorandum on Behalf of Respondent. — A409

Letter from William D. Moran, Esquire, by Thomas R. Beirne, Esquire, to Ronald F. Hunt, dated July 13, 1973. — A421

Extract from Division's Reply Brief. — A423

Extracts from Letter from Samuel H. Sloan to Ronald F. Hunt, dated February 27, 1974. — A424

Enclosures:

Letter from William D. Moran, Esquire, by Thomas R. Beirne, Esquire, to Samuel H. Sloan, dated February 20, 1974. — A432

Letter from Samuel H. Sloan to Jerome Selvers, dated February 20, 1974. — A433

Letter from William D. Moran, Esquire, by Thomas R. Beirne, Esquire, to Samuel H. Sloan, dated December 3, 1973. — A437

Letter from William D. Moran, Esquire, by Thomas R. Beirne, Esquire, to George A. Fitzsimmons, dated March 15, 1974. — A441

Letter from Samuel H. Sloan to Ronald F. Hunt, dated April 7, 1974. — A445

MR. RASHES: Although we are not technically required by the Jencks' Act or the rulings to supply the respondent with testimony or other Jencks' Act material, until that witness has testified, to facilitate the hearing we will comply with your order.

The Division calls Arthur Bruder, your Honor.

Whereupon,

ARTHUR BRUDER,

having been first duly sworn, was examined and testified as follows:

JUDGE TRACY: Please be seated.

State your name for the record.

THE WITNESS: Arthur L. Bruder.

EXAMINATION

BY MR. RASHES:

Q Where do you reside, Mr. Bruder?

A 92 Atlantic Avenue, Garden City, New York.

Q Are you presently employed, Mr. Bruder?

A No, I am retired, but I am temporarily employed by the Commission on a different matter than this one.

Q How long were you employed by the Securities & Exchange Commission before you retired?

A I was employed 12 years.

Q In what capacity?

A Securities investigator.

Q Prior to your employment by the SEC, were you ever employed in the securities field?

A Approximately 30 years before.

Q Where were you employed?

A Various brokerage houses. Last one being Goodbody & Co.

Q What capacity were you employed by these various broker-dealers?

A I was a supervisor in the margin department.

Q Now, Mr. Bruder, you just testified you were employed for 12 years as a securities investigator.

Could you please describe your duties as a securities investigator?

A I made broker-dealer inspections, investment advisor inspections.

In the course of these inspections, my duties were to certify whether the books and records of the Commission were kept in compliance with their record rules.

MR. TAYLOR: Did you say books and records of the Commission?

THE WITNESS: No. Books and records as specified by the Commission. In compliance.

A Also, I did investigations of fraudulent activity, manipulations of securities, capital computations of various broker-dealers, and a number of similar inspections, as assigned to me by my superiors.

Q How long were you assigned to this type of work, Mr. Bruder --

A Over 12 -- 12 years.

Q Did there come a time when you were assigned to conduct the examination of the books and records of the firm of Samuel H. Sloan & Co.?

A Yes.

Q What was the purpose of that examination?

A I was assigned to conduct an inspection of Mr. Sloan's records to ascertain if his books and records were in compliance with the record rules as the Securities Commission -- required them to be.

Q Did you also examine his books and records to determine his financial condition, sir?

A I did.

Q As part of this assignment, did you have occasion to visit the office of Sloan & Co. in 1971?

A Yes.

Q When did you visit the office, sir?

A I have a note. May I use it?

JUDGE TRACY: Go ahead.

MR. TAYLOR: Is he going to read it?

JUDGE TRACY: Any notes will be also available to respondent.

THE WITNESS: Yes.

MR. TAYLOR: I will just observe for the weight to be assigned to the witness' testimony, if he has to read in response to questions.

JUDGE TRACY: I think he is just refreshing his recollection.

MR. RASHES: In this case, your Honor, as you well know, the order is very all-encompassing.

It involves many dates, many visits and many trial balances.

I believe the witnesses are going to have to use notes to refresh their recollection, as it involves over a year's time and many many years.

MR. TAYLOR: Note the objection to the weight of the testimony then, your Honor.

JUDGE TRACY: Well, any notes he has to refer to will be available for examination.

MR. TAYLOR: I would simply move to have it makred so I can examine what it looks like.

JUDGE TRACY: I don't think we will mark it at the moment.

Just refreshing his recollection.

Q Mr. Bruder, the question was, when did you visit the office of Sloan & Co.?

A January 12, 13 and 15 of 1971.

Q On these occasions, did you inspect the books and records of Sloan &

A Would you repeat the question?

Q On these occasions did you inspect the books and records of Sloan & Co.?

A Yes, I did.

Q What did you find from your examination, Mr. Bruder?

A No trial balances have been prepared for examination.

X The general ledger disclosing assets, liabilities, income and expenses and capital accounts were not maintained.

No account record of bank balances, no account records of income and expenses.

X The trading account, a record of the firm's proprietary securities, was not maintained.

X Nor was fail to deliver or fail to receive.

X The capital account of the Samuel Sloan partnership was posted to July 19, 1970, and the capital account of Henry Theodos was, of the partnership, was posted September 11, 1970..

Stock record was in the preparation of being brought into compliance, but not completed.

Customers' accounts, later, were current to July 12th -- January 12, 1971.

The blotters and other records of original record, appear to be current to January 12, 1971.

Q Thank you.

Did you request a grial balance of Sloan & Co., Mr. Bruder?

A I did.

Q When did you request that trial balance?

A January 14th.

Q How did you request the trial balance, Mr. Bruder?

A By a letter dated January 15th.

MR. RASHES: Mr. Reporter, would you please mark this Division's Exhibit 2 for identification.

(Document referred to was marked Division Exhibit 2 for identification.)

BY MR. RASHES:

Q Mr. Bruder, I give you Division's Exhibit 2 for identification.

Could you tell me what that is?

A This is a letter -- copy of a letter that I delivered to Mr. Sloan, by hand, on or about January 14th.

Q Did you prepare that letter?

A Yes, I did.

Q Who signed the letter, Mr. Bruder?

A Mr. William Mortman, chief attorney of the branch.

Q It is your testimony you prepared and wrote that letter, is that correct?

A Yes.

Q Did Mr. Sloan sign for that letter upon receipt, Mr. Bruder?

A He did.

MR. RASHES: Your Honor, I offer that letter into evidence.

I believe it is stipulated to, also.

JUDGE TRACY: Will you show a copy to the respondent.

MR. TAYLOR: I believe we had stipulated to that letter previously, your Honor.

Is that Exhibit 2?

MR. RASHES: Yes.

JUDGE TRACY: Exhibit 2 will be received in evidence, without objection.

(Division Exhibit 2 for identification was received in evidence.)

BY MR. RASHES:

Q Now, Mr. Bruder, did you ever receive a trial balance from the firm of Samuel Sloan & Co. on January 14th?

A I received something which may have been a trial balance.

I'd have to examine it.

MR. TAYLOR: Your Honor, I object to the response to the question.

The answer could be yes or no.

I think if he is suggesting he guesses that that is not responsive to the question.

MR. RASHES: I will ask the question again.

Q Mr. Bruder, pursuant to your request of January 14, 1971, did you receive what purported to be a trial balance from the firm of Samuel H. Sloan & Co.?

MR. TAYLOR: I object to the form of the question.

JUDGE TRACY: Ask him if he received --

Q Did you receive a trial balance as of January 14th?

A Yes.

MR. TAYLOR: The question is leading, but I won't object to it.

In seriousness, your Honor, the witness is supposed to submit the facts, not the examiner.

JUDGE TRACY: That's correct, but we allow a certain amount of leading.

MR. RASHES: Mr. Reporter, would you please mark this Division Exhibit 3 for identification.

(Document referred to marked Division Exhibit 3 for identification.)

BY MR. RASHES:

Q Mr. Bruder, I show you Division Exhibit 3 for identification.

I ask you to tell me what it is.

A It is a balance sheet and a trial balance prepared by Samuel H, Sloan & Co., and received on January 18, 1971 by myself.

Q Thank you, Mr. Bruder.

MR. RASHES: Your Honor, I offer this into evidence.

MR. TAYLOR: Well, your Honor, I will object to it.

The witness identified it as a trial balance prepared by Sloan.

That is incorrect.

JUDGE TRACY: Well --

MR. TAYLOR: We object to it.

JUDGE TRACY: What is the incorrect part of it? Was the trial balance prepared on behalf of Sloan or by

an accountant of Sloan?

MR. TAYLOR: I don't know, sir.

I am just responding to Mr. Rashes' asking him to identify and if he identifies it as Mr. Sloan, or prepared by Mr. Sloan, that is incorrect. and I object to it.

If he wants to have an examination of the witness, as to what draws him to that conclusion, I will listen to him.

Q Mr. Bruder, how did you receive this trial balance?

A Excuse me, I believe I referred to that -- a trial balance received from either Mr. Sloan or Mr. Sloan -- or Samuel H. Sloan & Co.

If you check back the records there

Q How did you receive it, Mr. Bruder, in the mail or by hand?

A By hand.

Q Who did you receive it from, Mr. Bruder?

A Mr. Sloan brought it to me, personally.

MR. RASHES: I offer this into evidence, your Honor.

MR. TAYLOR: No objection.

JUDGE TRACY: Exhibit No. 3 will be received in evidence.

(Division Exhibit 2 for identification was received into evidence.)

BY MR. RASHES:

Q Mr. Bruder, did you receive any schedules accompanying the trial balance, Division's Exhibit No. 3?

A There are certain schedules there attached to that.

Q That is all you received, just Division's Exhibit No. 3?

A Yes.

Q Mr. Bruder, based on what you received, were you able to make a computation analysis?

A Would I be able to see that exhibit again, please?

(Document handed to witness.)

A I couldn't make a true capital computation on that.

Q Thank you.

MR. TAYLOR: What was that response?

THE WITNESS: I could not make a true capital computation.

MR. TAYLOR: I object to the language of the witness, not responsive.

The answer should be yes or no.

MR. RASHES: Mr. Taylor will have ample

opportunity on cross-examination to bring out any alleged contradiction or any inconsistencies in Mr. Bruder's testimony, and I believe this is just time-consuming and irrelevant.

MR. TAYLOR: That may be, but if the form of the question is improper and they are leading the witness and he responds with an inflamatory remark, it should be objected to at the time.

JUDGE TRACY: Upon receipt of that information from Mr. Sloan, were you able to make a capital computation?

THE WITNESS: No.

Q Mr. Bruder, after you received this information from Mr. Sloan, what did you next do?

A I had a conference there at the time. I believe we asked Mr. Sloan to have another trial balance prepared.

Q Subsequent to the receipt of Exhibit 3, did you visit the offices of Sloan & Co. again?

A I did.

Q When did you do that?

A At a later date. I can't recall. Time has elapsed.

Q Mr. Bruder, did there come a time when you went to Mr. Sloan's office to abstract certain information

from his books and records?

A Yes.

MR. RASHES: Would you please mark this Division Exhibit 4A, 4B and 4C for identification.

(Documents referred to marked Division Exhibits 4A, 4B and 4C for identification.)

BY MR. RASHES:

Q Mr. Bruder, I show you Division's Exhibit 4A for identification and ask you what is it?

A It is a trial balance I abstracted from Mr. -- or from Samuel H. Sloan & Co.'s records.

Q As of what date?

A As at January 18, 1971.

Q Mr. Bruder, I show you Division's Exhibit 4B and I ask you what that is.

A A copy of the trading account, both long and short, priced and valued, as of January 18, 1971.

Q I show you Division's Exhibit 4C and ask you what that is.

A Capital computation of a trial balance, as to his assets and liabilities, prepared on January 25th as at January 18, 1971, by myself.

Q Mr. Bruder, Exhibits 4A, 4B and 4C, were abstracted from you -- by you, from the books and records of Samuel H. Sloan & Co.?

A Yes.

MR. RASHES: I offer it in evidence, your Honor. That is 4A, 4B and 4C.

MR. TAYLOR: No objection.

JUDGE TRACY: Division Exhibit 4A, 4B and 4C will be received in evidence.

(Division's Exhibits 4A, 4B and 4C for identification were received in evidence.)

BY MR. RASHES:

Q Mr. Bruder, did you prepare capital computation after abstracting Division's Exhibits 4A, B and C?

A Yes.

Q When did you prepare that capital computation, Mr. Bruder?

A January 25th.

Q What did you make use of in preparing your computation?

A The materials submitted to me, and as for prices, public quotations either obtained from the pink sheets or any other public quotations of security prices to value them.

MR. RASHES: Your Honor, we have just determined that we have made a slight error, and Division's Exhibit 4C is that analysis which has already been admitted, but I will reoffer it after qualifying it.

JUDGE TRACY: What is -- that is the capital computation.

MR. RASHES: Would you please mark this Division's Exhibit 4C.

(Document referred to marked Division Exhibit 4C for identification.)

Q Mr. Bruder, I show you Division's Exhibit 4C and I ask you what it is.

A Capital computation of Mr. Sloan's assets and liabilities as at January 18, 1971, computed by myself on January 25, 1971.

Q What was the state of Mr. Sloan's capital at that date?

A Mr. Sloan was not under the capital requirements of Rule 15C3(1).

Q What was his deficiency, Mr. Bruder?

A Net -- as a result of my analysis, it showed Mr. Sloan's company had a net capital deficit of $23, 167. 23,016.

Q Was that deficit or deficiency?

A Capital deficit.

Q What was the amount of the deficiency?

A To comply he would require 28,016.

Q Mr. Bruder, 4C is your computation, is that correct?

A Yes.

Q You testified it was based on 4A and 4B, and certain valuations from the pink sheets and other public documents.

MR. TAYLOR: I object to the form of the question.

If the witness has testified, this is only leading the witness on direct examination.

He is telling the witness the answers.

MR. RASHES: This is just in the way of summarizing.

JUDGE TRACY: He can give the copy to the witness.

MR. RASHES: Your Honor, I offer this into evidence.

JUDGE TRACY: Is there any objection?

MR. TAYLOR: Is it different from the other 4C?

MR. RASHES: No, it is the same.

MR. TAYLOR: No objection then.

JUDGE TRACY: That will be received in evidence, if it hasn't already been.

(Division's Exhibit 4C for identification was received in evidence.)

THE WITNESS: The photostat isn't as clear --

MR. RASHES: Can we take the position that we will substitute photostatic copies of the exhibits, when necessary, legible photostatic copies?

MR. TAYLOR: No objection.

JUDGE TRACY: That will be done.

BY MR. RASHES:

Q Mr. Bruder, did you ever receive any other trial balances and schedules from Mr. Sloan?

A Yes, I did, at a later date.

Q What date was that, Mr. Bruder?

A I don't recall, Mr. Rashes.

Time has elapsed.

Q Mr. Bruder, did you, subsequent to the analysis of the first capital computations that -- or the first trial balance that we just discussed, revisit the firm of Samuel H. Sloan & Co.?

A Yes.

Q When was that?

A I don't recall on the dates on that. I would have to --

Q Mr. Bruder, would it refresh your recollection that you went back there in February of 1971?

A Yes.

MR. TAYLOR: I object, your Honor.

If the witness doesn't recall, I object to the

leading question put to him by the examiner.

He's done it a number of times. I have refrained from objecting merely for the form of the question being improper, but I think this has reached an intolerable point at this time.

The witness twice responded he doesn't know or doesn't recall, and to form the question by giving him dates and answers, it is totally improper.

JUDGE TRACY: I will allow him to refresh his recollection.

That may be important to you, too, the question of what date he was there.

If he was in fact there.

MR. TAYLOR: That's the point.

MR. RASHES: Mr. Reporter, would you please mark this yellow sheet of paper Divisinn's Exhibit 5Afor identification.

(Document referred to marked Division's Exhibit 5A for identification.)

MR. RASHES: Would you please mark this yellow sheet of paper as Division's Exhibit 5B for identification.

(Document referred to marked Division's Exhibit 5B for identification.)

MR. RASHES: Would you please mark this yellow sheet of paper as Division's Exhibit 5C for

identification.

(Document referred to marked Division's Exhibit 5C for identification.)

BY MR. RASHES:

Q Mr. Bruder, I show you Division's Exhibit 5A for identification.

Could you tell me what it is?

A It is a trial balance, abstracted by myself on January -- as of January 29, 1971.

Q When did you abstract that trial balance, Mr. Bruder?

A Well, I received it in the New York office on February 25, 1971.

I believe it was at that time.

Q Mr. Bruder, that was based on what, the trial balance?

A On the books --

MR. TAYLOR: Your Honor, I believe under your order we were supposed to receive copies of all items to be put into evidence.

I don't have January 29th.

MR. RASHES: January 29th was sent to Mr. Taylor.

I will give him another copy.

JUDGE TRACY: I think the witness said

January 29th, and it was received on January 25th.

THE WITNESS: February 25th.

MR. RASHES: The witness said it was as of January 29th.

If you don't have it, Mr. Taylor, we will be more than happy to give you a copy, but it was sent in that package.

MR. TAYLOR: I don't have one for the 29th, and I have every item that was sent to me.

JUDGE TRACY: Do you have a covering letter that would -- do you have a covering letter that would cover that?

MR. RASHES: If you will bear with me a minute, Mr. Tracy.

JUDGE TRACY: Let's go off the record for a minute.

(Discussion off the record.)

JUDGE TRACY: On the record.

Mr. Taylor, my order of August 18, 1972, on your motion for a more definite statement, specifically mentions a document, copies of computations as of the month end for 1-29-71.

MR. TAYLOR: I believe it did, your Honor.

JUDGE TRACY: If you didn't receive it, either it was an oversight or error or something.

MR. TAYLOR: Then you will not entertain my motion to strike this exhibit.

MR. RASHES: I have a letter here which I sent to Mr. Taylor, the cover letter, and the second page states enclosed please find the following documents as enumerated by Mr. Tracy's order of August 18, 1971.

One, copies of computations as at the month end for 1-18-71-1-29-71.

To the best of my recollection that material was included in the package sent to Mr. Taylor.

JUDGE TRACY: I will overrule the objection and the motion to strike.

MR. TAYLOR: Your Honor, I will state that I received every one that is listed in this page 2, paragraph number one, but I don't find the one for January 29th.

All the others I acknowledge receipt of.

If you will give me a copy of it, at least I will be able to look at it.

JUDGE TRACY: All right.

MR. RASHES: Read the record, please.

(Whereupon, the record was read by the reporter as requested.)

Q I show you Division's Exhibit 5B.

Can you tell me what that is?

A Copy of Mr. -- rather Sloan & Co.'s fail to delivers.

Q Did you abstract that, Mr. Bruder?

A I did.

Q On what date, Mr. Bruder?

A 1-29.

Q As of 1-29?

A Yes.

Q I show you Division's Exhibit 5C and ask you what that is.

A This is a copy of the inventory of Samuel H. Sloan & Co.

Q And you abstracted that, Mr. Bruder, from the books and records?

A Yes.

Q When did you do that?

A On January 29th.

Q Well, is it on January 29th or is it as of January 29th?

A As of January 29th.

Q I see.

MR. RASHES: I offer 5A, 5B and 5C into evidence, your Honor.

MR. TAYLOR: No objection.

JUDGE TRACY: All right. Division's Exhibit 5A.

5B and 5C in evidence.

(Division's Exhibits 5A, 5B and 5C for identification were received in evidence.)

Q Mr. Bruder, upon abstracting Division's Exhibit 5A, 5B and 5C, did you prepare a computation of capital analysis?

A I did.

Q What did you use in preparing your analysis, Mr. Bruder?

A Public quotations obtained either from the pink sheets or the daily newspapers, such as the Wall Street Journal, the Times.

Q Mr. Bruder, what was the result of your analysis?

A Mr. Sloan's capital condition was not in compliance.

JUDGE TRACY: As of what date?

THE WITNESS: As of January 29th.

Q Mr. Bruder, how much was it out of compliance?

A I have to see the computation to tell you.

MR. TAYLOR: Do you know, sir? Will you please answer the question, how much?

THE WITNESS: I can't answer that from over here.

How could I answer that?

MR. TAYLOR: Your Honor--

THE WITNESS: I haven't got a copy in front of me.

JUDGE TRACY: Don't argue with the attorney. He doesn't remember.

MR. TAYLOR: That's the answer.

MR. RASHES: Mr. Reporter, would you please mark this as Division's Exhibit 5D for identification.

(Document referred to marked Division's Exhibit 5D for identification.)

BY MR. RASHES:

Q Mr. Bruder, I show you Division's Exhibit 5D for identification and ask you what it is.

A Capital computation prepared by myself on March 3rd, as of January 29, 1971.

Q What was the total deficiency, total net capital deficiency, as of that date?

A The deficiency was $6,912, approximately.

Q Was that deficiency or the deficit?

A The deficit.

Q What was the deficiency?

A To comply, the company needed $11,912.

Q Thank you.

MR. RASHES: Your Honor, I offer this into evidence as Division's Exhibit 5D.

MR. TAYLOR: No objection.

JUDGE TRACY: Division's Exhibit 5D will be received in evidence.

(Division's Exhibit 5D for identification was received in evidence.)

BY MR. RASHES:

Q Mr. Bruder, when you abstracted the trial balance and other schedules of Sloan & Co., was the firm doing business at that time?

A Yes.

MR. TAYLOR: Objection, your Honor.

That calls for a conclusion from the witness.

MR. RASHES: He is an expert, your Honor.

I think we qualified him as an expert in security books and records and financial condition of the broker-dealer firms.

MR. TAYLOR: I very carefully wrote down exactly what he is qualified to testify to.

Inspections, his duties were to see books and records were in compliance, to make capital computations and to see if the records were kept in conformity.

It has nothing to do with his expertise on all of the rules of Commission.

I object to that question to this witness.

MR. RASHES: We are not asking him about all the rules of the Commissior

We are asking him whether the firm was doing business, to the best of his knowledge, when he visited the firm.

I think he is enough of an expert to testify to that.

MR. TAYLOR: I would submit that is a very technical and absolute rule of the Commission as to what makes doing business, and I say this man was not qualified to so testify.

JUDGE TRACY: Well, I will allow the answer. You can cross-examine him on it if you wish.

I will overrule the objection.

MR. TAYLOR: Is he expert for all rules of the Commission?

May I ask Mr. Rashes to respond to that?

JUDGE TRACY: I don't know -- he hasn't been qualified as an expert.

MR. TAYLOR: I agree with you.

I don't mean to sound too direct.

JUDGE TRACY: He says in his opinion they were doing business or they weren't doing business, and then you can examine him on that point, as to how he came to that conclusion.

MR. RASHES: Even if you don't consider him an expert, he is allowed to give his opinion -- his sensory

observations of what he saw or didn't see.

The state of mind of the examiners in --

JUDGE TRACY: I don't believe it is a state of mind.

If an investigator of the Commission goes in to a broker-dealer firm, he should be able to observe whether or not the firm is doing business.

I will allow the question.

Q How did you determine that the firm was doing business at that time?

A By telephone conversations and over this period of time as the trial balances show, there were additional transactions, purchases and sales of securities.

Q Mr. Bruder, when you abstracted the trial balances and schedules 5A through 5C, did you examine the books and records of Sloan & Co. at that time?

A Yes.

Q What were the condition of the books and records on February 25, 1971?

A On February 25, 1971 they still weren't quite clear.

There were a number of mistakes. The capital was not properly recorded, and the stock record wasn't up to date; neither was customers' ledger, as I recall.

Q What, if anything, did you find in relation

to the income and expense account of Sloan & Co.?

MR. TAYLOR: Objection to the form, your Honor.

JUDGE TRACY: Would you refine the question?

MR. RASHES: I asked what, if anything.

I don't believe it is a leading question.

MR. TAYLOR: He told him the answer by implication of the question.

JUDGE TRACY: I don't understand the question.

Q Did you examine the income and expense account of Samuel H. Sloan & Co.?

A I did.

Q What was the result of that examination, Mr. Bruder?

A It wasn't properly maintained.

Q Mr. Bruder, when did you retire from the Commission?

A In April 1971.

MR. RASHES: No further questions, your Honor.

JUDGE TRACY: Do you want to proceed with cross-examination or do you want to take a brief recess?

MR. TAYLOR: We will take a brief recess.

JUDGE TRACY: Let's take a five-minute recess then.

(Recess taken.)

A-88

JUDGE TRACY: On the record.

You may proceed, Mr. Taylor.

CROSS-EXAMINATION

BY MR. TAYLOR:

Q Mr. Bruder, you stated you had worked 30 years in the securities industry previous to your employment by the Commission?

A That's right.

Q You stated that you were a supervisor in the margin department of --

A Yes.

Q -- of Goodbody?

A Yes.

Q What was the other type of employment that you did in those 30 years?

A I originally started as a runner.

I then went to the transfer department, worked in the transfer department.

I made entries, run my own transfers, then went into the cage, helped balance the blotters, and during the time of the thirties, things became very slow, I did stock record work, P & S work, and practically the whole office. Wherever we had to fill in.

Q Had you worked for many different firms or just one employer?

A-89

A I had worked for a number of firms.

Q Could you tell us the number, please?

A One with Walker Brothers.

Q The number, not the name.

A I would say 12, or 13.

Q In the course of that employment, did you find that the books and records were kept exactly the same way in all firms?

A Most on a general principal, yes.

Q Were the books and records kept exactly the same way in all of your former employers?

A Yes, they were.

Q Was the blotters identical as to the design and form and color of blotters, if they differed?

A Yes.

At that time, yes.

Q Subsequent to that time, have they changed, sir?

A Yes.

They were changed because computerized blotters came in, and also machine blotters of a different type.

Q Were the forms used to send confirmations the same in every firm that you worked for?

A Practically, yes.

Q Was it, yes or no?

A-90

A Yes.

Q In every single instance?

A That's right.

Q Were the general ledgers exactly the same a the form and style?

A They were in the same form, yes.

Some were bound in a book; some were kept loose in a Burroughs bookkeeping cabinet, had they been done by machine.

Others were done by hand.

Q Would it be correct to say, Mr. Bruder, that in the course of your prior employments, you had seen many different forms then?

A Yes.

Q Of record-keeping.

And in the course of your 12 years as an examiner for the Commission, how many firms had you audited in the form of inspection?

A I would say perhaps 50.

Q Did you find in each single instance that each of the companies that you did examine kept identical records, both as to form and style of recordings?

A Generally, all forms were the same.

Each had its slight variations.

Q When you say all forms, you mean to say there

was a blotter maintained to record security transactions?

A Yes.

Q And there was a checkbook to record the receipt and disbursements of cash?

A Yes.

Q And a general ledger was maintained?

A Yes.

Q And there would be separate blotters, possibly, for transfer and receipt of securities?

A Yes.

Q Is that your connotation that they were the same?

A Yes.

Q Was the style and form of them, which is really my question, was the style and form of them the same, Mr. Bruder?

A Yes.

Q Is there any single rule you can tell me that requires, under the Commission's rules, a single form to be used in the maintenance of any records?

MR. RASHES: I object.

Mr. Bruder is not a lawyer and he is being asked a legal question.

MR. TAYLOR: He said he is an expert in the rules.

JUDGE TRACY: I will allow it.

I overrule the objection.

MR. TAYLOR: Would you repeat yhe question?

(Question read.)

A No. There is --

Q Thank you. The answer was no. Thank you, sir.

When you examined on January 12, 1971 the records of Sloan & Co., you said that they did not have a general ledger, is that correct?

A I said the general ledger, I believe, was not properly maintained.

Q What did you mean by that?

A Well, the income and expense of the general ledger was not properly maintained.

Capital was not properly recorded.

Q In what regard, sir?

Specifically tell me what was not maintained.

A Particularly the capital account was not properly maintained.

Q You keep saying not properly maintained, and I want you to tell me what was not properly maintained of that ledger account.

A There wasn't a true record of Mr. Sloan's capital there.

Q How was it incorrect, if it was not true?

A We found by --

Q We, sir? Do you mean I found?

A I found.

Q All right.

A That there was an additional capital in the firm, which was incorrectly recorded.

There was other capital --

Q Would you tell us specifically what --

MR. RASHES: Your Honor, the witness has not finished his response to the question.

MR. TAYLOR: He certainly did.

I do not want him to embelish or lend gratuitously any response to my question.

JUDGE TRACY: Read the question back.

(Whereupon, the question was read back by the reporter.)

Q What was not recorded. That was the response to my question.

MR. RASHES: In the middle of a sentence, Mr. Taylor cut him off.

JUDGE TRACY: The last question was specifically what was wrong with it, or what was --

MR. TAYLOR: Yes, sir.

JUDGE TRACY: You may answer if you can recall.

A There was capital, if I recall, recorded in there, for Mr. Theodos, which at that time Mr. Theodos was not a partner in the firm.

Q This is on the date of January --

A The initial inspection.

Q January 12th?

A Yes.

Q Did you in your prior testimony state that the capital account of the partnership was incorrect?

If you recall your testimony.

A I -- my testimony was that the capital account of Samuel H. Sloan & Co., I think I didn't mention anything about the partnership --

Q All right. I will withdraw the question.

The record will indicate both the prior response and this response by the witness.

MR. RASHES: Yes.

Q Did you say, Mr. Bruder, that there was no general ledger maintained by Sloan & Co.?

A I said the general ledger was not properly maintained.

Q I ask you again, how was it improperly maintained, then?

A I explained that the capital account was not properly maintained.

A-95

Entries for certain capital were not put in there, also income and expense was not properly recorded there.

Q Howwas the income and expense improperly recorded?

A There were missing items.

Q Such as?

A Certain income of commissions, I would say.

Q What specifically were the commissions omitted?

A Well, Mr. Sloan had a rather -- rather, Sloan & Co. had executed an agency transaction. There were certain commissions that were omitted or in the book. I can't recall at this time.

Q Do you know, if your testimony is, sir, that the records were improperly maintained because of this, I ask you what commission was not recorded on what agency transaction?

A That, Mr. Taylor, is a very hard question. I can't answer that.

Q You don't know, fine, okay.

That is the response.

Did you examine to see if Sloan & Co. maintained a blotter records of purchases and sales of securities?

A Yes, I did.

Q Did you find that he had such records?

A He did.

Q Did you find or did you examine to see if he had a stock record?

A Yes.

Q And did you find that the stock record was present? That he did maintain it?

A On the initial visit, the stock record was not maintained currently.

Q How many days was it behind then?

In postings, that is.

A I don't recall at this time.

Q But there was a stock record maintained?

A Yes.

Q As of some date?

A As of a certain date.

Q Did you examine to see if he had a record of the securities fail to deliver and fail to receive that were opened on the date of your examination?

A Yes.

Q Was there a record?

A There was.

Q Did you examine to see if he had a record of the trading account positions, long and short, at the date of your examination?

A Yes.

Q Was there such a record?

A Yes.

Q Did you examine to see if he had and maintained a customer ledger at the date of your examination?

A Yes.

Q Was there such a record?

A Yes.

Q In the Exhibit 4A -- will you let him have that, please?

MR. TAYLOR: There should be three parts.

MR. RASHES: 4A, B and C. Do you want all of them?

MR. TAYLOR: Yes.

BY MR. TAYLOR:

Q Now, Mr. Bruder, on the prior testimony you identified and were taken into evidence under Exhibits 4A, B and C, a trial balance as of January 18th, a trading account showing long and short positions as of January 18th and a capital computations as at January 18th.

Is that correct?

A Yes.

Q May I just hand these to you to assist you when I ask some questions?

A Right.

Q Do you have it before you, sir?

A Yes.

Q Under the date of January 18th I direct your attention to the schedule that shows a trial balance dated January 18th, that results in the computation.

A Yes.

Q Now, you notice an item listed among the liabilities that is called unaccounted for difference; diff is difference, is that correct?

A Yes.

Q Do you see that item, sir?

A I do.

Q Would you tell us what that particular amount of 10,043.90 represents, please?

A The difference between the assets and the liabilities of the trial balance,abstracted by myself as at January 18th.

Q Are you saying then that the general ledger you previously testified was maintained by Sloan, was not in balance on that date?

A Yes.

Q And that the amount of debits exceeded the amount of credits by 10,043.90, is that your testimony?

A Yes, sir.

Q I refer you to the next item listed, please. As far as I can read it, it says receipts,

payments, account of customers.

A Yes.

Q 11,010.13.

Can you tell me what that item is, please?

A These are receipts of -- of the Sloan Co., by Mr. Sloan or his firm.

Q Sloan & Co.?

A Sloan & Co.

Q Right.

A Which are a -- appear to me to be a net credit balance of his customers' debits and credits.

Q You say appears to you.

Do you know for a fact that they are monies owed to customers as at January 18th, Mr. Bruder?

A On over-all monies owed to customers.

That is, there were more credit balances than debit balances.

Q And you obtained that information from the subsidiary ledger called customer ledger of Sloan & Co., is that right?

A From the ledgers here.

Q From the ledgers maintained by Sloan & Co.?

A No. Yes, that's right, the ledgers maintained by Sloan & Co.

Q Could you tell us the names of those customers?

A I cannot from this sheet.

Q Did you make a schedule of those or a listing of those customers?

A No, I did not.

Q Why --

A Because --

Q Pardon me, sir?

A At that time I don't believe there was a complete list of them.

Q I just asked you then, did you examine and find in the customer ledger, which you said was maintained, did you find a schedule -- pardon me.

Did you find balances totalling 11,010.13 as monies due to customers?

A No, I did not.

Q You did not find it in the customers' ledger then?

A No.

Q Where did you find or where did you establish such amount?

A From the general ledger.

Q In what accounts did you look?

A There was an account setup, receipts and payments, account of customers.

Q Did you examine both sides of that account?

A That's the way -- I examined both sides to see, and the total was that amount.

Q What was the total of the debits in that account, sir, if you know?

A I don't know, sir.

Q And you don't know the amount of credits, other than, as you state, the net amount is 11,010.13?

A Yes.

Q Mr. Bruder, did you examine any other record that was not a ledger, that established that amount for you?

A No.

Q You insist that it was the customer's ledger.

A I looked through a customer's ledger.

This balance came from the record of the general ledger.

Q Was there a control account in the general ledger that showed this balance, sir?

A No. There was no record in the control account.

Q Then, if I understand you, is it your testimony that the general ledger trial balance prepared from the general ledger, would not contain this amount? Is that correct?

A That's right.

This is a balance which I took from Sloan's

records.

Q Some records of Sloan's?

A Some records of Sloan's.

Q Which you now identify as the customers' ledger?

A Yes.

Q Would it also be correct to say that the unaccounted for difference is not a general ledger trial balance account, in the amount of 10,043.90, that no such account exists?

A That is an account that I put on the sheet to balance off the assets and liabilities.

Q So would it be possible that you overlooked an account in the ledger?

A I don't believe it would be possible.

Q Would it be possible?

MR. RASHES: Your Honor, I think the witness just answered that question.

If you want to read it back --

JUDGE TRACY: Read the question.

MR. TAYLOR: I will withdraw it.

JUDGE TRACY: All right.

Q Is it correct then or would it be possible that the customer account figure that you have also is in error?

That there is no such account in the general ledger for that amount?

A What are you --

MR. RASHES: I object.

I don't believe Mr. Bruder -- I think Mr. Bruder testified he took this from the general ledger.

A specific item described as receipts -- receipts from or of customers.

I think this has been testified to already.

MR. TAYLOR: He also --

JUDGE TRACY: I don't think he testified anything is in error.

That is your statement.

MR. TAYLOR: I believe he testified that the 11,010.13 was not a ledger account.

JUDGE TRACY: That doesn'tmean it was in error, does it?

MR. TAYLOR: It doesn't say it was, either, your Honor.

JUDGE TRACY: As I understand it, he took the figure off the books and records of Mr. Sloan.

He didn't go back to the subsidiary supporting documents to see if it was properly booked.

He at least took if off the general ledger account, which had that much difference in it.

MR. TAYLOR: I would submit that is not his testimony.

Without prejudicing my examination, I will tell you my testimony on the direct case will be entirely contrary to that.

That is what I am -- that is why I am trying to get him down to the rationale of why he did it.

JUDGE TRACY: All right.

BY MR. TAYLOR:

Q Would it be correct to say, in any event, Mr. Bruder, that the Exhibit 3, which you have before you, was prepared from the books and records of Sloan & Co.?

MR. RASHES: I believe he has Exhibit 4, Mr. Taylor.

MR. TAYLOR: Is that 4?

MR. RASHES: Yes.

MR. TAYLOR: I beg your pardon, that is 4. First time you are right today.

Q Is that correct, sir, that these schedules that you ultimately finalized, were prepared from the books and records of Sloan?

A Yes, sir.

Q Did you, to establish the trading account long and short, look to the stock record of Sloan & Co. to verify the particular shares and identity of

securities?

A On 4B?

Q This is the January 18th date, Mr. Bruder.

A Yes, that's 4B.

Q Yes, sir.

Did you look to the stock record of Sloan?

A No, I did not.

Q Was there any reason why you did not?

A At this time, or rather at that time, I figured that the trial balance was inaccurate, that I had obtained from Sloan's books and records, there was no sense in checking it at that time.

Q How was it inaccurate, again?

A The assets did not equal the liabilities, according to my calculations.

Q And according to the trial balance that you attempted to take off?

A Yes.

Q Fine.

So therefore you concluded that you did not have to examine the stock record?

A That's right, sir.

I also --

Q You had testified that there was a stock record at the time?

A Also, but it was not maintained.

Q Thank you, Mr. Bruder.

Now, you had also under the date of January 14th, had a letter over the signature of Mr. Nortman, forwarded to Sloan, requesting that he produce certain records, is that correct?

A Yes.

Q All right.

Do you recall that? Listing all of the individual items?

Did Mr. Sloan supply those records to the Commission?

A Subsequently?

Q Subsequent --

MR. RASHES: I would like to --

MR. TAYLOR: January 14th letter.

MR. RASHES: I'd like to know what documents in particular he is discussing.

Whether he is discussing --

MR. TAYLOR: All of them listed.

JUDGE TRACY: He is discussing Exhibit 2.

MR. TAYLOR: I think the witness answered that, and you started to say subsequently.

Q Continue.

A Mr. Sloan appeared with a computation which he

A No, I did not sign it with my name.

I prepared the letter.

Q You prepared it?

A Yes.

Q Who signed the letter?

A I believe a superior, Mr. Nortman.

Q All right.

Continue, please.

A Requesting Mr. Sloan to confirm a certain amount of money which Mr. Sloan had said that he had received from her, as a gift.

Q What you are stating is that Mr. Sloan had told you previously that he had received $10,000?

A Certain monies.

Q From his mother?

A Right.

Q And you found this in the capital account of Mr. Sloan?

A Not in Mrs. Sloan, no.

Q Mr. Sloan?

A I found it in the capital account here.

Q That is what I asked.

Did you find it in the capital accountof Mr. Sloan?

A Yes.

Q You did?

A It was included.

Q Why is the reason you have deleted it from his capital as of January 29th?

A We could not ascertain that it was actual capital.

Q Is there any question that the $10,000 amount is reflected among the assets on January 29th?

A It is not recorded in the assets.

I have it included in the liabilities, sir.

Q Well, then, if you have done that, may I ask you, please, if the amount is not included among the assets, why would you include it among the liabilities?

A Well, it would be included in over-allassets, maybe as cash in the bank or funds on deposit with another broker or it may be part of his fail to delivers.

Q I asked you the question before, sir, is it, the $10,000, is it included among the assets, and you said no.

I asked you the next question --

A I stand corrected.

It is in there.

Q Were you in error on that testimony?

A On that one particular question, yes.

Q Then, would you tell us again why you listed

among the liabilities, please?

A We could not confirm that it was part of Mr. Sloan's capital.

We wrote a letter to Mrs. Sloan requesting that she had given it to him as a gift or as a loan.

It was not stated and we never received a reply.

Q Would it be correct to state that if the mother of Mr. Sloan would verify that that was a complete gift, that it should be included as capital and not liability on January 29th?

A Yes.

Q Would that be correct, sir?

A Yes.

Q Would you then say that if that be so, then this computation is in error?

A If it was an actual gift, yes, sir.

Q Now, I direct your attention to the schedule that lists the long and short positions, please.

A Yes.

Q Do you note at the bottom of the page, I believe it is in your handwriting, a numeral two?

A Yes.

Q In that numeral two, it says check to the stock record.

A Yes, sir.

Q Would you please tell us what that means?

A The long and short position was checked to see that this was correct according to Mr. Sloan's stock record.

Q Then, would it be correct to say on January 29th, 1971, that the stock record of Sloan & Co. was correct and that you verified it to be correct?

A Yes.

Q And now, Mr. Bruder, you also testified that during the period that the firm of Sloan was "doing business," is that correct?

A Yes.

Q You said you verified that by telephone conversations, is that correct?

A Yes.

Q Will you tell us with whom you had those conversations?

A I didn't hae the telephone conversations. Mr. Sloan had telephone conversations. Also --

MR. TAYLOR: Your Honor, then I would ask that that portion of Mr. Bruder's testimony as regards doing business under the explanation of telephone conversations be stricken.

He has just admitted that he did not, at that point, have any telephone conversations.

Anything else that he might offer would be hearsay.

I would ask that it be stricken.

MR. RASHES: The hearsay rules don't formally apply to administrative proceedings, your Honor.

We feel that this is relevant testimony.

JUDGE TRACY: Well, hearsay is admissible, if it is substantiated by some other evidence, but just hearsay by itself I am going to allow some questioning on it, anyway.

MR. TAYLOR: The matter of hearsay, if I may direct myself to that point, is not to be substituted for direct evidence.

Direct evidence may be further supplanted by certain kinds of hearsay, but it cannot be offered as a proof of direct evidence and that is precisely the witness' testimony.

And I again make, if the chair wants to reserve on it, but I make the motion to strike it because it is pure hearsay.

JUDGE TRACY: What particular testimony are we talking about now?

MR. TAYLOR: The prior testimony of Mr.

Bruder, where he testified that the firm was "doing business."

He was asked by Mr. Rashes how did he establish that.

He said by telephone conversations.

We now find that he is alluding to possibly calls made by Mr. Sloan.

I say that that implication of his direct testimony is that these were conversations that he had, and I ask that that be stricken.

MR. RASHES: That was not the only thing that he gave in answer.

That was one of the segments. I wouldn't want everything stricken.

He also said by a check of the books and records and confirmations.

MR. TAYLOR: I will get to it on the rest of my examination.

We are now dealing with a telephone conversation and the witness now states he had none.

MR. RASHES: He never testified he did.

He testified that while he was there inspecting the books and records he heard Mr. Sloan on the telephone and --

MR. TAYLOR: I raise in direct anger at

this type of explanation, because he has again told the witness how to make his testimony.

MR. RASHES: I take umbrage to that remark, your Honor.

If I can't rise to explain my objections, I am sorry for Mr. Taylor.

I object to his objection, and I feel the evidence is well suited and can go into the hearing.

It is up to you to decide in your own mind what kind of credibility you want to give to it.

JUDGE TRACY: I would like a little more explanation in about this telephone conversation.

Can you ask some questions?

MR. TAYLOR: I will ask him again.

BY MR. TAYLOR:

Q Mr. Bruder, in your prior testimony on the question of doing business, is it correct to say that you established it by, among other things, one matter of telephone conversation?

A Yes.

Q Is that correct?

A Yes.

Q Fine.

Did you have any telephone conversations that would establish that Sloan was doing business during that

time?

A With other brokers, no, sir. I did not, not with other brokers.

MR. TAYLOR: That was his response, your Honor.

JUDGE TRACY: Well, that doesn't mean that there weren't things going on in the office that would lead him to believe that the firm was doing business.

MR. TAYLOR: I will ask the other questions.

Q Who had the telephone conversations, to your knowledge?

A Mr. Sloan and some other unknown person, as far as I know.

JUDGE TRACY: What was the nature of the telephone conversations?

THE WITNESS: They were quotes, various quotes, and at one time I overheard him make a transaction.

JUDGE TRACY: How did you happen to overhear these conversations?

THE WITNESS: Because the office wasn't very large.

JUDGE TRACY: Were you in the same room with him?

THE WITNESS: We were in the same room, yes, sir.

BY MR. TAYLOR:

Q This all occurred on the one date you examined, I think it was January 12th, and then on the 13th, either one of those two days?

A It occurred somewhere around that period of time, yes, sir.

Q It had to be exactly that period, because that was the time you were in his office?

A Yes.

Q Your testimony says January 12th and 13th?

A Yes.

Q It happened on those two days.

A Yes.

Q Would you repeat as best you can remember, the substance of that conversation that you heard?

A I heard Mr. Sloan ask a price on what -- on a security.

Q What security was that?

A I can't recall, sir.

Q You can't recall, fine.

Continue, sir.

A I know it was a security transaction, a quote there.

Also I heard Mr. Sloan give a quote to a broker.

Q For what security was that?

A I have to think.

There was one in my mind in particular. Somewhere about a half, three-quarters.

I can't recall.

Q What security was it?

A Can't give you the answer, sir.

Q You don't know or you don't recall, which is it, sir?

A I don't recall.

Q Don't recall.

Do you know the name of the broker that that conversation may have taken place with?

A No, I don't recall.

Q Do you recall the time that it took place?

A May have taken place somewhere around 11:30 in the morning.

Q It may have?

A Yes, sir.

Q Did you say?

A It was before my lunch hour, so it was about 11:30.

MR. TAYLOR: Well, I would renew my objection and particularly direct it to the weight to be afforded that type of testimony.

JUDGE TRACY: I will overrule the objection.

MR. TAYLOR: All right.

BY MR. TAYLOR:

Q You also stated as another matter that you examined to determine "doing business," that the trial balance indicated additional transactions.

A Yes.

Q Is that correct?

A Yes.

Q Could you tell us how?

A Well, the inventory had increased or decreased -- the inventory.

Q The long positions?

A Long and short positions had changed.

Q From what date to what date?

A From the dates here, the two dates here, January 18th and January 29th.

Q Are those two trial balances reflective of the contract date or the settlement date activity of Sloan, sir?

A They would be the settlement date.

Q The settlement date?

A Yes.

Q Would it be correct to say then that if contracts were in existence on January 18th that they

would not be reflective in the January 18th trial balance you have there?

A That's right, sir.

Q Might they be reflective in the January 29th trial balance, however?

A They might, yes, sir.

Q Would that in your opinion, sir, be doing business?

A If a transaction expired on the 18th, and it carried forward either as a fail to receive --

Q Or an inventory?

A Or as an inventory transaction, it would appear on January 29th.

Q Correct.

A Had it not been cleaned up on the other.

Q That's right.

A Therefore, on those particular transactions, where they were here, there would be no change in the business, but there were other securities transactions in between.

Q Might you say then, Mr. Bruder, what you really are stating is that the trial balances have changed, but you are not prepared to tell us the exact reason at this time?

Is that a fair statement? Is that a fair

summary of your testimony?

A The trial balances have changed.

Q We agree to that.

Can you tell us and would it necessarily fir into your concept of doing business, in view of your explanation now as to contract and settlement date activity?

Mr. Bruder, if you don't know the answer, I will accept I don't know.

If you don't know just state your answer.

A Mr. Taylor, I am trying to certify here from the appearance of the trial balance sheet.

Q Take your time.

A That transactions had occurred in the two periods.

Q Wouldn't it be correct, Mr. Bruder, that the January 18th trial balance, being the settlement date, was -- ordinarily --

Q Yes, sir.

Q -- ordinarily it takes five days between contract and settlement date.

So wouldn't it be correct to say that at least four business days prior to January 18th would be consummated transactions from being made, but would not be reflected on the January 18th trial balance in the

normal course of record-keeping?

A Yes.

Q And that as a matter of course, as the days rolled by, the 11 days intervening up to the 29th now, that in the general course of record-keeping Sloan would have to reflect those four or five prior business day activities?

That would adjust and change long and short fail to receive without ever consummating a new transaction in that 11-day period?

Isn't that possible?

A Yes, sir.

Q Fine.

That's all I want you to say.

Now, you further stated that on February 25th you caused another or made another examination of Sloan, is that correct?

A Yes.

Q And that you had stated that the information that he supplied was "not clear to you," is that correct, sir?

A I --

Q Do you recall that testimony, sir?

A I believe there is another transaction, rather

trial balance, in between here, sir, that was not clear to me.

Q Well --

A Some other, submitted by Mr. Sloan.

Q I take it that, on my notes, I copied February 25th.

The date may be not quite, I am not sure -- it may be --

A February 25th.

Q Does that sound like something you recall?

A Yes, that's the trial balance that I have before me, which I abstracted.

Q Did you say that the information there included mistakes that the capital account was in error, that the stock record was in error, that the customer ledger was notproperly maintained?

Was that your prior testimony?

MR. RASHES: I don't understand the question, whether he is relating to the books and records of the firm or whether he is relating to the document that Mr. Bruder abstracted.

MR. TAYLOR: I am relating to the prior testimony of Mr. Bruder.

As I recall, he testified that in another trial balance or other information supplied to him, that

he found it to be unclear and he made a number of comments as to what made it unclear.

I am trying to examine him in detail as to what those items were.

JUDGE TRACY: Well --

MR. TAYLOR: I did think he testified to that, your Honor.

JUDGE TRACY: Can you pinpoint the testimony as to what document or what time he was talking about there?

MR. TAYLOR: It was a schedule of a trial balance and other related information that had been requested from Mr. Sloan,

I recall the date in the testimony, you said on February 25th, having done this examination. That is the reference I make.

JUDGE TRACY: Well, according to the Division's Exhibit 5A, trial balances at 1-29-71 on through 2-25-71.

MR. TAYLOR: What was that?

JUDGE TRACY: 5A, as of 1-29-71, by Bruder on 2-25-71.

That's the February date you are talking about.

MR. TAYLOR: All right, I have it clear now, excuse me.

I was confused by that.

My mistake that time.

BY MR. TAYLOR:

Q Now, Mr. Bruder, on that January 29, 1971 information which is in Exhibit 5 --

A Yes.

Q -- A through D now.

You stated that that was prepared from books and records, but that you were not quite clear, as I remember your testimony, you were not quite clear as to certain information.

Is that correct?

MR. RASHES: Your Honor, could we go back and check the testimony on that, because I have no such recollection.

JUDGE TRACY: Let's ask him.

MR. TAYLOR: The witness is the one who has to remember it.

MR. RASHES: Sorry.

A We seem, in my opinion now, we seem to be a little confused with certain other schedules submitted here prior to this one.

Now, I think accordingly, either I am confused

on it at this particular moment, or you are.

There is another schedule which comes in between January 18th and this one here, which Mr. Sloan submitted.

Is this --

Q That is January 29th?

A January 29ty.

Q What is the one in between then?

A Mr. Rashes -- it is an exhibit over there.

Q Is it this one, the trial balance along with the balance sheet?

A Yes, that's the one.

Q That is the one?

A That's the one.

Q That speaks of the date of January 18th, is that correct?

A Yes.

That's the one there, which Mr. --

Q If I may show you this, please.

This is the one I think you referred to.

A Yes. There's one in between here.

This is it, yes.

MR. TAYLOR: Can we go off the record for a moment?

JUDGE TRACY: Off the record.

(Discussion off the record.)

JUDGE TRACY: On the record.

BY MR. TAYLOR:

Q All right, Mr. Bruder.

Exhibit 3, which is a schedule of a trial balance and a balance sheet and a profit and loss statement, speaking as of January 18, 1971, was that the reference before that you said the matters were not quite clear to you as contained in that exhibit?

A Yes, sir.

Q Would you tell us, please, what precisely are the items that you think causes the confusion or are in error?

A We did not have here on this original schedule submitted to me, an inventory of securities long and short.

We did not have an inventory or record of actual fails to deliver and fails to receive.

We just had a summary total of fails to deliver and fail to receive, no schedule or the same thing applied to the securities long and short.

Q So would it be correct then that what you are saying is that because of the detail that was lacking, was the confusion?

A Yes, sir.

Q Is that correct?

A At that time, yes.

Q Is it also correct to say that on January 18th under Exhibit 4, you were able to prepare, in any event, the necessary computations from information again submitted?

A No.

This information is what I went down and abstracted.

Q And would it be also correct to say that all you had to do to eliminate this entire question of either mistake or confusion was simply to go over to the broker, as you did apparently, on Exhibit 4, and look for the details and make your computation?

A Yes, sir.

MR. TAYLOR: Just one minute.

(Pause in hearing.)

BY MR. TAYLOR:

Q Mr. Bruder, did you have occasion to look into the Commission's files or to examine a figure under the action 17A5 rule, dated January 29th of 1971, over the signature of Raymond Leon, certified public accountant?

Had you examined that statement at all?

Coincides with one of the dates that you had prepared, you see.

A Somewhere I recall a letter was written to the Commission stating that, 17A5 could not be prepared on time for Mr. Sloan's capital position.

Q Was an extension requested?

A Requested additional time.

Q Did you at any time look into or examine in the course of your duties with Sloan & Co., did you look into the questionnaire filed by the certified public accountant as of January 29, 1971?

A I don't believe there was a filing made by the accountant as at that date.

Q You don't know if there was, is that correct, sir?

A Yes.

Q Your testimony is that you had no reason or you were not assigned the duty of examining it?

A That's right. I was not assigned.

MR. TAYLOR: That's all, your Honor.

MR. RASHES: Can we have two minutes, your Honor, please?

JUDGE TRACY: Yes.

(Short recess.)

JUDGE TRACY: On the record.

Go ahead, Mr. Taylor.

REDIRECT EXAMINATION

BY MR. RASHES:

Q Mr. Bruder, I believe on Exhibit 5A you were dealing with an unconfirmed gift of $10,000 on Mr. Taylor's cross-examination.

Did you ever request of Mr. Sloan to see a deposit ticket reflecting the deposit of that amount into the firm, Sloan & Co.?

A I believe I did.

Q Did you ever see a deposit slip?

MR. TAYLOR: Could he just state if he did or not, rather than his--

MR. RASHES: He is testifying to the best of his recollection.

MR. TAYLOR: That doesn't make the quality of the answer any less demanding.

He said I believe.

Either he knows or he doesn't know, your Honor.

JUDGE TRACY: Do you recall whether you did or you didn't?

A I didn't see the deposit slip.

Q To the best of your knowledge was one ever produced to you?

MR. TAYLOR: Objection, your Honor.

A-129

He's answered he never saw one, and he is now persisting in leading the witness.

JUDGE TRACY: I will allow the question.

BY MR. RASHES:

Q Did Mr. Sloan ever attempt to give you any verification on the $10,000 deposit of capital into his firm?

MR. TAYLOR: I object unless there is proper foundation laid for that question.

He has never even inquired as to whether it was requested.

The question is improper.

JUDGE TRACY: I will allow the answer, if he knows.

A Would you repeat the question?

MR. RASHES: Repeat the question please, Mr. Reporter.

(Whereupon, the pending question was read by the reporter.)

A I can't recall.

MR. RASHES: We have no further questions, your Honor.

MR. TAYLOR: I have no further questions, your Honor.

A Yes.

Q When were you assigned?

A I believe it was in March of '71.

Q Did there come a time when you visited the offices of Sloan & Company?

A Yes.

Q When was that?

A May I refer to some notes?

JUDGE TRACY: Yes, you may refresh your recollection.

A March 19, '71.

Q Why did you go to Mr. Sloan's office on March 19?

A To extract or obtain a trial balance of the firm.

Q Did you obtain a trial balance from the firm of Sloan & Co.?

A I abstracted a trial balance on that date.

Q Were you supplied anything on that date from Sloan & Co.?

A The books were supplied to me, and I made the extracts of the trial and schedules.

MR. RASHES: Mr. Reporter, would you please mark this document as Division Exhibit No. 6, for identification?

(Whereupon, the document above-referred to was marked Division's Exhibit No. 6A, for identification as of this date.)

MR. RASHES: Would you mark this document as Division's Exhibit 6B for identification?

(Whereupon, the document above-referred to was marked Division's Exhibit No. 6B, for identification, as of this date.)

MR. RASHES: Mark this as Division's Exhibit 6C for iden tification.

(Whereupon, the document above-referred to was marked Division's Exhibit No. 6C, for identification, as of this date.)

MR. RASHES: Would you mark this document as 6D for iden tification.

(Whereupon, the document above-referred to was marked Division's Exhibit No. 6D, for identification, as of this date.

BY MR. RASHES:

Q Mr. Kanoff, I give you Division's Exhibit 6A for identification, and ask you, what is it?

A A trial balance that I abstracted from the books of the firm, as of February 26, 1971.

Q When did you extract it?

A When did I?

Q Yes.

A March 19.

Q I show you Division's Exhibit 6B for identification, and I ask you what that is?

A This is a listing of fails to receive and fails to deliver -- excuse me -- fails to deliver, as at February 26.

Q I show you Division's Exhibit 6C for identification, and ask you what that is?

A A machine listing of the fail to receive of the firm at February 26.

Q I also give you Division's Exhibit 6D, and ask you what that is?

A This is a listing of the inventry of -- as at that date.

Q Mr. Kanoff, where did you get Division's Exhibit 6B, C and D?

A These were given to me by Mr. Sloan.

Q Thank you.

MR. RASHES: Your Honor, I offer these in evidence.

MR. RAYLOR: No objection, your Honor.

JUDGE TRACY: Division's Exhibits 6A, 6B, 6C and 6D will be received in evidence without objection.

(Whereupon, the documents above-referred to, Division's Ex. Nos. 6A - 6D were received in evidence, as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, did you prepare an analysis of Division's Exhibit 6A, the February 26 trial balance?

A Yes, I did.

Q What did you make use of in preparing your analysis?

A The several schedules we just discussed and the pink sheets, for pricing purposes.

Q What was the result of your analysis?

A A deficienct, a net capital deficiency of approximately $16,000.

MR. RASHES: Please mark this as Division's Exhibit 6E.

(Whereupon, the document above-referred to was marked Division's Exhibit No. 6E, for identification, as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, I show you Division's Exhibit 6E and ask you what it is?

A This is an analysis that I prepared, as against that trial and schedules of February 26.

Q What was that based on? 6E?

A The trial, the schedules and the supporting prices for the inventory account that I got from the pink sheets.

MR. RASHES: I offer this into evidence.

MR. TAYLOR: No objections.

JUDGE TRACY: Division's Exhibit 6E will be received in evidence.

(Whereupon, the document above-referred to, Division's Ex. No. 6E was received in evidence as of this date.)

JUDGE TRACY: Is that a net capital computation or --

MR. RASHES: Yes, sir.

BY MR. RASHES:

Q In making your analysis of Division's Exhibit 6A, the February 26th trial balance, did you give full credit to Mr. Sloan's capital position as taken off the general ledger?

A Might I see that, again?

Q I am giving you 6A through 6E.

A No. I did not use the capital number as it appeared in my computation.

Q Could you explain why you didn't or what you did?

A In going through the books and the conversation with Mr. Sloan, turned out that there was an item on there of $58,000, approximately, which Mr. Sloan said was capital, that in conversation, turned out to be moneys in some question to do with a customer and partner partner, a kind of customer relationship, a man by the name of Joseph, --

Q Would you explain what you just said?

A That's what Mr. Sloan told me. He wasn't a customer. He wasn't a partner. They were discussing a partnership, I believe, Mr. Sloan said, but he hadn't yet signed anything, and this was moneys owed to Mr.Iny.

Q How did you treat that sum in your analysis?

A I took that as an item payable to Mr. Iny, and charged as a liability.

Q In taking of the -- in abstracting the trial balance on March 18, as of February 26, were you able to determine if Sloan & Co. was doing any business?

A Yes, sir.

Q How did you make this determination, sir?

A Well, there were confirmations about the room, securities being delivered by runners, securities lying about, in plain view, and I overheard Mr. Sloan on the telephone giving out quotes.

Q Did there come a time subsequent to March 19, when you visited Sloan & Co.?

A Yes, sir.

Q When was that?

A On the 8th of April, '71.

Q Why did you visit Sloan & Co. on April 8?

A I wanted to get a March month-end trial.

Q Did you examine the books and records on April 8?

A No, I didn't.

Q What did you do on April 8, when you were at Sloan & Co.

A I -- when I asked Mr. Sloan for his books, he gave me a story that he had no books, per se, that he had the machine service, which I was aware of, he had given me machine runs earlier, but that all he had until he got these runs which he didn't have at the moment, were debit and credit slips that he would supply to the service, from which they would produce his records.

Q Did you attempt to use these debits and credits confirmations to extract a trial balance at that time?

A It would have been impossible.

Q Why is that?

A There would be no meaning to a debit without knowing what prior balance was.

MR. TAYLOR: I will object to that question and response, unless Mr. Kanoff will add in his opinion, it was impossible.

THE WITNESS: No objection to that. In my opinion, it would have been impossible.

JUDGE TRACY: All right.

BY MR. RASHES:

Q During your visit of April 8,. 1971, did you discover any evidence that Sloan & Co. was engaged in doing business?

A Yes.

Q What was that evidence?

A The same situation as the earlier visit. Securities all about the office, runners back and forth, telephone activity.

Q Did you request a trial balance as of the end of April, 1971?

A Yes, sir.

Q Did you receive a trial balance as of the end of April, 1971?

A No, sir.

Q Did you visit Sloan & Co. subsequent to April 8, 1971?

A Yes, I did.

Q When was that, sir?

A On May 6.

Q What was the purpose of that visit on May 6?

A To verify the March month end trial that I had gotten.

Q Were you able to verify this March end trial balance?

A No, I was not.

Q Why were you not able to verify it?

A I was unable to locate or Mr. Sloan to furnish me with certaindelivery bills, certain confirms, stock record, and daily blotter.

Q During your March 6 visit to Mr. Sloan's -- Strike that.

During your May 6, 1971 visit to Sloan & Co., were you able to determine if they were doing any business?

A Yes, sir.

Q How did you determine this, sir?

A Again, the securities about the office, the runners' presence and telephone activity.

Q Did you request a trial balance as of the end of May, 1971?

A Yes, sir.

Q Did you ever receive this requested trial balance?

A No, sir.

Q Subsequent to your May 6 visit to Sloan & CO., did you again visit the firm?

A Yes.

Q When was that?

A In June.

Q When, in June?

A June 9, I believe.

Q What did you do at Sloan & Co. during your June 9th visit?

A Not very much. I went up to get the May trial, but it was unavailable because his service for some reason or other, was unable to produce it.

Q During this June 9th visit, did you have any conversations with Mr. Sloan?

Strike that.

During this June 9th visit, did you request of Mr. Sloan a trial balance?

A Yes.

Q Did Mr. Sloan produce a trial balance to you at that time, for the end of May?

A No, sir.

Q Did you ever receive a trial balance from Mr. Sloan for the end of May?

A No, sir.

Q Did you ever receive any financial reports of Sloan & Co. for the end of June, 1971?

A Yes, I did.

Q What did you receive?

A I received a trial balance filed by Mr. Robert Taylor.

Q Who is Mr. Taylor?

A Mr. Sloan's counsel and accountant.

Q Qas this report you received, treated as an X17A5 filing?

A No, it was not.

MR. TAYLOR: Objection.

Can Mr. Kanoff be in a position to make that decision?

JUDGE TRACY: Ask him how it was filed?

A You didn't ask me --

Q Mr. Kanoff, in the course of your normal duties, do you review A17A5 filings?

A Yes, I do.

Q I ask that question again, were the financial statements received from Mr. Sloan as of the end of June, 1971, treated as an X17A5 report?

A No, sir.

MR. TAYLOR: Objection. I have to find out, treated by Mr. Kanoff, by the Commisssion, or by whomever Mr. --

JUDGE TRACY: I will allow him to explain it.

A I would analyze an X17A5 report, if it is given to me as such to be analyzed. The figures that were submitted by Mr. Taylor were not given to me as a X17A5. The decision was not mine.

Q Why wasn't it treated as a X17A5 filing?

MR. TAYLOR: Objection, your Honor. The witness has testified it would not be his decision to make as to whether or not it was an X17A5, and then for Mr. Rashes to ask him why it was not, the witness has testified it was not his position, and I'm sure it is not.

JUDGE TRACY: I will allow him to answer, if he knows

A I am aware of why it was not, or the decision was not mine.

Q Could you testify to that, please?

A Certainly. Pursuant to the instructions and court order, Mr. Sloan was requested to have certified figures submitted to the Commission, and this particular report, as of June 31, was in response to that order.

Q How did you treat these figures or this report?

A As a certified trial balance.

MR. RASHES: Excuse me one minute, your Honor. I have --

MR. TAYLOR: I will wait, then.

MR. RASHES: Mr. Reporter, would you please mark this document, and mark that document as 7B for identification.

(Whereupon, the document above-referred to was marked Division's Ex. No. 7B, for identification as of this date.)

BY MR. RASHES:

Q I give you Division's Exhibit --

A If I may back up a moment, Mr. Rashes, in the form of this particular report, I would normally go into a description of public and non-public.

Has this been a certified filing pursuant to Rule 17A5, there would be a public and non-public portion.

As this was not considered a 17A5 filing, the entire report is non-public.

Q I see.

I show you Division's Exhibit --

MR. TAYLOR: This is a public proceeding. Is that admissible, then?

JUDGE TRACY: I can admit it, certainly.

MR. RASHES: Your Honor, all investigative files

This is going to be -- the thrust of this is going to be his analysis upon this.

MR. TAYLOR: Will the rest of that non-public file be made available for inspection, since he has opened it by introducing a part of it, for my examination, sir?

MR. RASHES: The whole document is going to be introduced.

JUDGE TRACY: Whatever is introduced will become public, upon introduction into the record.

MR. TAYLOR: My question, sir, is that, if this is now opening up a non-public file, and not knowing what else may be in there, if the Commission has been selective in only producing part of that non-public file, I would like the opportunity to examine the entire file; to see if there are other matters that should be placed in evidence here.

MR. RASHES: I would like to know what other non-public file --

MR. TAYLOR: I haven't the slightest idea. The witness has qualified these two documents as being in a non-public file. I have no idea what it is. I am just asking that, if there is such a file, since Mr. Rashes has introduced what apparently may be a portion of it, I am asking the Court for authority to examine the entire file, to see if there are other matters that may

necessary to introduce here.

MR. RASHES: Your Honor, this is a document that has been filed with the Commission by Mr. Sloan, or by Mr. Taylor, for Mr. Sloan.

It is treated in a confidential manner. We are not opening up any private or confidential files at this time. We are merely putting in this to show what figures were supplied to us as of a certain date, and what was done with those figures.

JUDGE TRACY: As I understand it, these were figures that you submitted on bahalf of Sloan & Co., at the order of the Court. Why --

MR. TAYLOR: That was not even in evidence, yet, your Honor.

JUDGE TRACY: Isn't that right? Didn't he have to submit these?

MR. RASHES: I believe Mr. Kanoff answered that, when we got to the point of why it was not treated as a 17A5 report.

MR. TAYLOR: He said there was an injunction that required an audit to be made.

JUDGE TRACEY: You filed it in response to the Court's order. The Court said you shall file on such and such a date certain financial statements. You filed them, right?

MR. TAYLOR: I will wait until I examine him.

JUDGE TRACY: Why it would be in a non-public file, is beyond me.

MR. TAYLOR: I will wait until he gets done.

JUDGE TRACY: In any event, I will admit them in evidence.

MR. RASHES: I offer 7A and 7B in evidence.

JUDGE TRACY: Any objections?

MR. RASHES: Excuse me. In the discussion we lost track of something.

Q What is Division 7B for identification, Mr. Kanoff?

A It's a cover sheet, notarized affirmation, an accountant's certificate, and answers to financial questionnaire, which is, in effect, a balance sheet of the firm, as at June 30.

MR. RASHES: Your Honor, I offer both 7A and 7B into evidence.

JUDGE TRACY: Any objection?

MR. TAYLOR: No objection.

JUDGE TRACY: Exhibit 7 A and 7B are received.

(Whereupon, the document above-referred to was marked Division's Ex. 7A & 7B and received in evidence, at this date.)

MR. RASHES: Please mark this Division's 7C for identification.

(Whereupon, the document above-referred to was marked Division's Exhibit No. 7C, for identification, as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, on receipt of Division's Exhibit 7A and 7B, did you prepare a capital analysis?

A Yes, I did.

Q What did you make use of in your analysis?

A The submitted schedules and balance sheet.

Q Did you use anything else, Mr. Kanoff?

A No, sir.

Q You didn't use pink sheets?

A No. As it was a certified report, we accepted the evaluation of the inventory.

Q What was the result of your analysis?

A A net capital deficit of approximately $24,000.

Q Is that deficit or what are we talking about --

A Net capital deficiency.

Q I show you Division's Exhibit 7C, and ask you what it is?

JUDGE TRACY: What was the amount?

MR. RASHES: I think he said twenty-four.

THE WITNESS: This is the analysis that I made from those reports.

Q They were based on the certified reports?

A Yes.

Q Thank you.

MR. RASHES: I offer Exhibit 7C into evidence.

MR. TAYLOR: No objection.

JUDGE TRACY: Division's Exhibit 7C will be received in evidence.

(Whereupon, document previously marked Division's Exhibit 7C was received in evidence, as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, did you ever request a trial balance as of the end of July, 1971, from Sloan & Co.?

A Yes.

Q Did you receive this trial balance?

A Yes, I did.

MR. RASHES: Excuse me, your Honor. It will take a moment.

Would you please mark these exhibits as follows: one page sheet of paper, 8A;

JUDGE TRACY: Mark it.

(Whereupon, document above-referred to was marked Division's Exhibit 8A, for identification, asof this date.)

MR. RASHES: 8B.

(Whereupon, the document above referred to was marked Division's Exhibit 8B, for identification as of this date.)

MR. RASHES: 8C, another group of documents.

(Whereupon, the document above-referred to was marked Division's Exhibit 8C for identification, as of this date.)

MR. RASHES: 8D.

(Whereupon, the documents above-referred to was marked Division's Exhibit 8D, for identification, as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, I show you Division's Exhibit 8A and ask you what is it?

A This is a photocopy of a trial balance of the firm as at July 31.

Q Did you receive it, Mr. Kanoff?

A Yes, I received this from Mr. Taylor.

Q I show you 8B, and I ask you, what that is?

A This is a series of copies of confirmations that constitute fail to deliver of the firm, as at July 31.

Q I show you 8C and ask you what that is?

A These are copies of the confirmations that make up the fail to receive.

Q I show you Division's Exhibit 8D, and ask you, what is that?

A Schedule of the inventory as at July 31.

MR. RASHES: I offer Exhibit 8A through 8D into evidence.

MR. TAYLOR: No objection, your Honor.

JUDGE TRACY: Division's Exhibits 8A through 8D will be received in evidence.

(Whereupon, document previously marked Division's Ex. 8A - 8D were received in evidence, as of this date.)

MR. RASHES: Could you please mark this schedule Division's Exhibit 8E for identification and this schedule Division's Exhibit F.

(Whereupon, documents previously marked Division's Ex. 8E & 8F were received in evidence, as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, when you received these documents, Division's Exhibit 8A through 8D, did you receive any other documents or papers from Mr. Taylor?

A Well, there was a cover letter, I believe, and I believe a computation, capital computation that he had made.

Q And did you examine Mr. Taylor's capital computation.

A Certainly.

Q Was it a complete capital computation?

A No, sir, it was not.

Q Why was it incomplete?

A It was incomplete as to the failure to receive being charged off in the computation.

Q Do you know the deficienct that Mr. Taylor had in this computation, offhand?

A No.

Q I show you Division's Exhibit 8E and ask you to identify it.

A This a computation and schedule of failure

to deliver, and a photocopy of the tapes involved.

MR. RASHES: I offer Division's Exhibit 8E into evidence.

MR. TAYLOR: Just, may I ask the witness, your Honor.

VOIR DIRE

BY MR. TAYLOR:

Q When you said there was, about the failure to receive, what was you comment, there was what?

A The computations, as I recall, was not complete.

Q Shows a blank like?

A Yes.

Q Is that your suggestion?

A Yes, and the fact, I believe you and I had some conversation as to that, and you indicated that you hadn't included the failure to receives.

Q Is there a footnote underneath these?

A Yes.

Q Would you just read it?

A I'll quote from it.

No reduction is reflected for failure to deliver in long position. No reduction is reflected for failure to receive in long position.

Q I see.

Is that a requirement or is that an option

available to the broker in submitting its computation, Mr. Kanoff.

A I frankly don't know. I would assume it's an option.

Q And the line is left blank?

A The computation, as submitted, is redone in the office, anyway.

MR. TAYLOR: No objection.

JUDGE TRACY: Division's Exhibit 8E will be received in evidence.

(Document above-referred to marked Division's Exhibit 8E and received in evidence, as of this date.)

DIRECT EXAMINATION

BY MR. RASHES:

Q I show you Division's Exhibit 8F and I ask you what it is?

A This is my analysis of the submitted trial, and the reevaluation, of the trading, and a breakdown of the failure to receive, where there is a long firm position, and a computation of the failure penalties.

Q Mr. Kanoff, what did you base this analysis on?

A The submitted documents and the pink sheets for pricing purposes.

Q When you say the submitted documents, you are talking about 8A through 8D; is that correct?

A Yes.

Q What was the result of your analysis?

A A total deficiency of approximately $70,000.

MR. RASHES: I offer 8F into evidence.

JUDGE TRACY: Division Exhibit 8F will be received in evidence.

(Whereupon, document above-referred to was marked Division's Ex. 8F and received in evidence as of this date.)

BY MR. RASHES:

Q Now, Mr, Kanoff, subsequent to your receiving the July 31 trial balance, and doing your analysis, did you ever again visit the firm of Sloan & Co.?

A Yes, I did.

Q When was that?

A On the 10th of August.

Q Why did you visit Sloan & Co. on the 10th of August?

A I wanted to see the books and determine if the firm was still doing business.

Q Did you examine the books on the 10th of August?

A No, I didn't.

Q Why not?

A Mr. Sloan indicated to me that Mr. Taylor had possession of the books.

Q On your August 10th visit, were you able to determine whether Sloan & Co. was doing business?

A Yes, I was.

Q How did you determine this, sir?

A There were confirmations about, securities, again, in view.

Q Do you have any idea what months these confirmations were for?

A Not offhand at the moment, no.

Q What was the general condition of the offices of Sloan & Co.?

A Mildly chaotic, I would think. There were certificates on the floor, even.

MR. TAYLOR: Can the witness explain that, in view of the conditions we are faced with?

THE WITNESS: Extremely untidy. Securities on the floor.

MR. TAYLOR: What rule does that violate? So we know what you are driving to, your Honor.

THE WITNESS: I don't know that we have a rule about cleanliness.

MR. TAYLOR: There is no rule on cleanliness

A Not in the Securities Act.

MR. TAYLOR: No rule, then, your Honor.

Thank you, sir.

MR. RASHES: That goes to the public interest, I assume.

BY MR. RASHES:

Q Did you visit the offices of Sloan & Co. subsequent to August 10?

A Yes, I did.

Q When was that?

A On the 12th of August.

Q Why did you visit on the 12th of August?

A I had hopes of seeing the books back from Mr. Taylor's office.

Q Did you see the books on the 12th of August?

A Yes, I did.

Q What was --

Strike that.

Did you inspect the books on the 12th of August?

A Yes.

Q What was the results of that?

A I did examine the books.

Q What was the result of that examination?

A I noted the general ledger was only posted through the July month, July 31, and I mentioned this to Mr. Sloan, and he said, that well, that's true enough, but he had made notes what had transpired between March 31 and August 12, and I also noted that there were a number of trades that had not yet been confirmed for the month of August.

Q On -- based on your observation, was Mr. Sloan doing business, or was the firm of Sloan & Co. doing business on August 12?

A Yes, sir.

Q What evidence did you find that it was doing business?

A The telephone activity again, and tickets that he was preparing for his service would indicate he had done some business.

Q Did you request a trial balance for the end of the month, then?

A Yes.

Q 1971?

A Yes.

Q Did you ever receive it, sir?

A Yes, sir.

JUDGE TRACY: In the interest of chronology here, Mr. Kanoff, did you visit the Sloan & Co. offices

between June 9, 1971 and August 10, 1971?

THE WITNESS: No, sir.

MR. RASHES: Would you please mark this exhibit as 9A.

(Whereupon, the document above-referred to was marked Division's Exhibit 9A, for identification, as of this date.)

MR. RASHES: Would you please mark this as Division's Exhibit 9B for identification.

(Whereupon, the document above-referred to was marked Division's Exhibit 9B for identification, as of this date.)

MR. RASHES: Please mark this as Division's Exhibit 9C for identification.

(Whereupon, the document above-referred to was marked Division's Exhibit 9C for identification as of this date.)

MR. RASHES: Would you please mark this as Division's Exhibit 9D, for identification.

(Whereupon, the document above-referred to was marked Division's Exhibit 9D, for identification, as of this date.

BY MR. RASHES:

Q Mr. Hanoff, I show you Division's Exhibit 9A for identification, and I ask you what it is?

A This is a photocopy of the trial balance that Mr. Sloan submitted to me as at August 31.

Q I show you Division's Exhibit 9B, and ask you what it is?

A This is a schedule of the inventory as supplied to me for the same date.

Q I show you Division's Exhibit 9C, and ask you what it is?

A A schedule of the failure to deliver.

Q I show you Division's Exhibit 9D, and ask you what it is?

A Schedule of the failure to receive.

Q These are abl as of the end of August?

A All as of 8/31/71.

Q All given to you by Mr. Sloan, or someone representing him?

A Yes.

MR. RASHES: I offer Division's Exhibits 9A, B, C and D into evidence.

MR. TAYLOR: No objection.

(Whereupon, the documents previously marked Division's

Ex. 9A - 9D, were received in evidence, as of this date.)

BY MR. RASHES:

Q Upom receipt of these documents, 9A through 9D, did you make a capital computati9n and an analysis?

A Yes.

Q What did you use in making your analysis?

A These four exhibits and the pink sheets for the prices purposes.

Q What were the results of your computation?

A A total deficiency of approximately $16,000.

MR. RASHES: Mr. Reporter, would you please mark this 3-page document as Division's Exhibit 9E for identification.

(Whereupon, documents above-referred to were marked Division's Exhibit 9E, for identification as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, I show you Division's Exhibit 9E and I ask you, what is it?

A This is my analysis of the trial balance, a rewriting of the inventory with fresh pricing on it, and that runs into the third page.

Q And the basis of this again was 9A through 9D?

A 9A through 9D, and the pink sheets.

MR. RASHES: I offer 9E into evidence.

MR. TAYLOR: No objection.

JUDGE TRACY: Division's Exhibit 9E will be received in evidence.

(Whereupon, document previously marked Division's Ex. 9E : were received in evidence, as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, did you request a trial balance and supporting schedules from the firm of Sloan & Co. for the end of September, 1971?

A Yes, I did.

Q Did you receive the trial balance and supporting schedules for the end of September, 1971?

A Yes, I did.

MR. RASHES: Mr. Reporter, would you please mark this exhibit as Division's Exhibit 10A for identification?

(Whereupon, document above-referred to was marked Division's Exhibit No. 10A for identification, as of this date.)

MR. RASHES: Please mark this as 10B for identification.

(Whereupon, the document above-referred to was marked Division's Exhibit 10B, for identification, as of this date.)

MR. RASHES: Please mark this as 10C, for identification.

(Whereupon, the document above-referred to was marked Division's Exhibit 10C, for identification as of this date.)

MR. RASHES: Would you please mark this as 10D for identification.

(Whereupon, the document above-referred to was marked Division's Exhibit 10D, for identification as of this date.)

MR. RASHES: Would you please mark this as Division's Exhibit 10E for identification.

(Whereupon, the document above-referred to was marked Division's Exhibit 10E for identification as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, I show you Division's Exhibit 10A for identification, and I ask you what it is?

A Trial balance of September 30, as supplied to me by Mr. Sloan.

Q I show you Division's Exhibit 10B and ask you what that is?

A This is the trading inventory as of the same date.

Q I show you Division's Exhibit 10C and I ask you what that is?

A Schedule of the failure to deliver for September 30.

Q I show you Division's Exhibit 10D for identification, and ask you what that is?

A Failure to receive schedule, as of the same date.

MR. RASHES: Your Honor, I offer Exhibits 10A through 10D into evidence.

MR. TAYLOR: No objection.

JUDGE TRACY: Division's Exhibits 10A through will be received in evidence.

(Whereupon, documents previously marked Division Ex. 10A through 10D were received in evidence, as of this date.)

BY MR. RASHES:

Q Upon receipt of Division's Exhibit 10A, 10B, 10C and 10D, did you prepare a capital analysis of the trial balance?

A Yes, sir.

Q What did you make use of in doing your analysis?

A 10A through D and the pink sheets.

Q What were the results of your analysis?

A Approximately -- total deficiency of approximately $24,000.

Q I show you Division's Exhibit 10E and I ask you what it is?

A This is my analysis.

Q What is 10E based upon?

A 10A through 10D, and the --

Q The pink sheets?

A No. I see not even the pink sheets, if I may correct my earlier statement. I accepted Mr. Sloan's evaluations.

MR. RASHES: Your Honor, I offer Division's Exhibit 10E into evidence.

MR. TAYLOR: No objections.

JUDGE TRACY: Division's Exhibit No. 10E will be received in evidence.

(Whereupon, document previously marked Division's Ex. No. 10E was received in evidence, as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, subsequent to the trial balance and schedules of analysis of September 30, 1971, did you request a trial balance and supporting schedules?

A Yes, I did.

Q As of what date did you request them?

A As of October 8.

MR. RASHES: Mr. Reporter, would you please mark the following exhibits?

This is 11A.

(Whereupon, the document above-referred to was marked Division's exhibit 11A, for identification as of this date.)

MR. RASHES: This double sheet is 11B.

(Whereupon, the document above-referred to was marked Division's Exhibit 11B, for identification, as of this date.)

Q

MR. RASHES: This sheet is to be marked 11C for identification.

(Whereupon, the document above-referred to was marked Division's Exhibit No. 11C, for identification, as of this date.)

MR. RASHES: This sheet is 11D.

(Whereupon the document above-referred to was marked Division's Exhibit No. 11D for identification.)

MR. RASHES: This sheet is 11E.

(Whereupon, the document above-referred to was marked Division's Exhibit 11E for identification as of this date.)

MR. RASHES: Thank you.

BY MR. RASHES:

Q Mr. Kanoff, I show you Division's Exhibit 11A, and I ask you, what is it?

A This is a trial balance of the Sloan firm as at October 8th, that's supplied by Mr. Sloan.

Q I show you Division's Exhibit 11B and I ask you what that is?

A That is a schedule of the trading position as at October 8.

Q I show you Division's Exhibit 11C, and I ask

you what that is.

A A schedule of the failure to deliver as at October 8th.

Q Supplied by Mr. Sloan of Sloan & Co.?

A Absolutely.

Q I show you Division's Exhibit 11D, and ask you what that is.

A A schedule of the failure to receive as at October 8, as supplied by Mr. Sloan.

Q Thank you, Mr. Kanoff.

MR. RASHES: Your Honor, I offer 11A, 11B, 11C and 11D into evidence.

MR. TAYLOR: No objection.

JUDGE TRACY: Division's Exhibits 11A through 11D will be received in evidence.

(Whereupon, documents previously marked Division's Ex. 11A - 11D were received in evidence, as of this date.)

BY MR. RASHES:

Q Upon receiving the Exhibit 11A through 11D, did you prepare a capital analysis?

A Yes, I did.

Q What did you use to prepare the capital analysis?

A The trial balance and supporting schedules, in

11A through 11D.

Q Mr. Kanoff; what were the results of your analysis?

A A total deficiency of approximately $8,300.

Q Mr. Kanoff, I show you Division's Exhibit 11E and ask you what that is?

A That is the analysis of the October 8th trial.

Q What was this analysis based upon?

A May I see it again?

On the submitted schedules, only. I accepted Mr. Sloan's evaluation.

Q Thank you.

MR. RASHES: I move to admit Division's Exhibit 11E, your Honor.

MR. TAYLOR: No objection.

JUDGE TRACY: Division's Exhibit 11E will be received in evidence.

(Whereupon, documents previously marked Division's Ex. 11E was received in evidence, as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, you testified that you requested a trial balance for the end of September, 1971; is that

correct?

A That is right.

Q And you received it and analyzed it.

A Yes, sir.

Q Why, then, did you request a trial balance as at October 8, from Sloan & Co.?

A Well, it had come to the attention of my office that Mr. Sloan, pursuant to some sort of an agreement with another broker-dealer, had deposited certain securities with that broker-dealer, and I wanted to be sure that it didn't impair his capital any further.

So, I asked for fresh figures.

Q Who was that broker-dealer?

A The New York Stock Exchange Member Firm by the name of Love & Co.

MR. RASHES: Mr. Reporter, would you please mark this letter as Division's Exhibit 12.

(Whereupon, the documents above-referred to were marked Division's Exhibit No. 12, for identification, as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, I show you what has been marked as Division's Exhibit 12, for identification and I ask you what is it?

A This is a letter from the Love firm, signed by one of their vice presidents and it is a list of securities received from Mr. Sloan on various dates.

MR. TAYLOR: Your Honor, before we go further with this, I see, now, that we are at the point where I must bring to the Court's attention that there are matters pending in this regard. There is an arbitration proceeding, certain records that I have asked for under the subpoina that I asked to be directed by this Court are now involved, and I would ask that while this is a public proceeding, that this part of the record be under Rule 25, be treated as confidential material, in view of the fact that we would not want to prejudice ourselves in matters, pending.

And we would ask that at least this part of the transcript, including all of the Exhibits be sealed and only be released under certain conditions as prescribed under Rule 25.

MR. RASHES: Rule 25 seems to specify that request for confidential treatment should be made in writing prior to the time of the hearing.

JUDGE TRACY: Rule 25 has nothing to do with this proceeding.

MR. TAYLOR: Sir, I had made a request for a subpoena to obtain documents. At that time, and I believe at the beginning of this proceeding, we had talked about

depending upon the views taken by the Commission staff, that there was going to be a matter of time when my subpoena as well as this matter would have to be faced.

JUDGE TRACY: As I told you at the outset, Mr. Taylor, I am willing to issue the subpoena, and I will even go further, now.

I will instruct the staff of the Division to obtain the information from the New York Stock Exchange, in order to expedite matters.

MR. TAYLOR: Your Honor, isn't it also factually so that the Commission may have certain files of information that are not available to me, and in the interest of protecting my client in the matter of arbitration, that the request that this record, this part of it be kept closed, is not an untoward requent. I have no idea what's going to be introduced on this matter at all, your Honor.

MR. RASHES: We are not going into the merits or demerits of the arbitration or subsequent court case that Mr. Sloan is involved in.

We are bringing this out for one or two limited points. I think we should bring out limited points.

MR. Taylor: May I have an explanation of these points between the attorneys and the judge, so we can

MR. TAYLOR: Before he answersthat, weren't we going to ask him wgat was the conversation that lead to the wording of that letter? Qualify it as being admissible because of some of that language in there.

JUDGE TRACY: Well, I don't know.

MR. TAYLOR: I don't want to interrupt.

JUDGE TRACY: Off the record.

(Discussion off the record.)

JUDGE TRACY: On the record.

BY MR. RASHES:

Q Mr. Kanoff, I want to read you the letter.

"Dear Mr. Kanoff:

As per our telephone conversation, please find attached list of securities that Sam Sloan sold. Please feel free to contact me at any time if I can be of any further assistance."

Mr. Kanoff, the letter says sold. What elicited this response from Mr. Rainieri, the signatory.

A The request was made to Mr. Steve Mousgris, also an officer of the firm. I asked for a list of the securities that Mr. Sloan deposited with the firm of Love.

This letter from Mr. Rainieri is inresponse to the question I put to Mr. Mousgris.

MR. TAYLOR: The question was what securities

Mr. Sloan deposited.

A Yes.

MR. TAYLOR: That was the answer. This is the answer.

MR. RASHES: Your Honor, I offer this in evidence.

MR. TAYLOR: Before we mark it, your Honor, I would like to offer an objection to it as not being responsive to that question. It doesn't say it was deposited. It said these are securities that were sold.

JUDGE TRACY: Can you explain?

THE WITNESS: Well, the situation as I understood it, when the request was made, was that Mr. Sloan deposited certain securities with the firm. Obviously, from the tone of this letter, it was after these securities were deposited, they were sold.

MR. RASHES: To clarify perhaps the top caption of the second page of the letter, says, "Securities received in from Sam Sloan on the following dates."

MR. TAYLOR" May we offer the second two pages and eliminate the letter?

MR. RASHES: I have no objection to that.

MR. TAYLOR: That's in response to his inquiry.

JUDGE TRACY: Eliminate the letter because somebody else can testify to what they meant.

MR. RASHES: I have no objections.

MR. TAYLOR: May we then strike from the record all of the matters pertaining to that first part of the exhibit?

MR. RASHES: I don't follow that.

MR. TAYLOR: All of the language of the reading, the so --

MR. RASHES: Just pertaining to the first page?

JUDGE TRACY: Yes. Strike that. The first page, you want to remove the first page?

MR. TAYLOR: Yes.

JUDGE TRACY: Then ask the witness to identify the schedules as having been received in response to a request.

MR. RASHES: Would you please remark this as Division's 12A, a two-page document.

(Document previously marked 12 was remarked Division's Ex. No. 12A as of this date.)

BY MR. RASHES: Mr. Kanoff, I show you what is now marked Division's Exhibit 12A, and ask you, what is it?

A This is a list of securities received by the firm of J. S. Love & Company, from Mr. Sloan.

Q How did you come to receive that schedule?

A I requested it.

Q Who did you request it of?

A Mr. Steve Mousgris, an officer of the firm.

Q Is it in your regular course of business, to request letters of this type.

A Yes.

Q Is it in your regular course of business to receive letters of this type?

A Yes.

MR. RASHES: Your Honor, I offer Division Exhibit 12 into evidence.

MR. TAYLOR: No objection.

JUDGE TRACY: Division's Exhibit 12 will be received in evidence.

(Whereupon, the documents previously marked Division's Ex. No. 12 were received in evidence as of this date.)

Q Upon receiving Division's Exhibit 12, did you do anything with it?

A Yes, I did.

Q What did you do?

A I compared the securities -- I compared the schedule of securities received by the Love firm, to the trading schedules that Mr. Sloan had submitted for the same periods that the deliveries were made.

Q What did you find in your comparison?

A That in certain instances Mr. Sloan included some securities that had already been delivered to Love.

Q Included them on what?

A On the trading inventory that he submitted to me.

Q Thank you, Mr. Kanoff.

Excuse me a minute.

Mr. Kanoff, did you request a trial balance and supporting schedules from Sloan & Co. for the period ending November 30?

A Yes, I did.

Q Did you receive this trial balance, sir?

A Yes, I did.

Q Approximately when?

A Approximately the third week in December.

Q Thank you.

MR. RASHES: Mr. REporter, would you please mark this as Division's Exhibit 13A, a two-page schedule.

(Whereupon, the document above-referred to was marked Division Exhibit 13A, for identification as of this date.

MR. RASHES: Would you please mark this as Division's Exhibit 13B, a two-page schedule.

MR. RASHES: Would you please mark this two-page schedule Division's Exhibit 13B

(Whereupon, the document above-referred to was marked Division's Exhibit No. 13B, for identification, as of this date.)

MR. RASHES: Would you please mark this one page schedule as Division's Exhibit 13C.

(Whereupon, the document above-referred to was marked Division's Exhibit No. 13C, for identification, as of this date.)

MR. RASHES: Would you please mark this two-page schedule, Division's Exhibit 13D.

(Whereupon, the document above-referred to was marked Division's Exhibit No. 13D, for identification, as of this date.)

MR. RASHES: Thank you.

BY MR. RASHES:

Q Mr. Kanoff, I show you Division's Exhibit 13A and ask you, what is it?

A Trial balance as of November 30, of the firm, as supplied by Mr. Sloan.

Q I show you Division's Exhibit 13B and ask you,

what is it?

A A schedule of his inventory as of the same date, supplied by Mr. Sloan.

Q I show you Division's Exhibit 13C, and ask you, what is it?

A A failure to deliver schedule of November 30, as supplied by the firm .

MR. RASHES: Your Honor, I move for the admission of Exhibits 13A, 13B and 13C.

MR. TAYLOR: No objection.

JUDGE TRACY: Division's Exhibits 13A through 13C will be received in evidence.

(Whereupon, documents previously marked Division Ex. 13A - 13C were received in evidence, as of this date.)

BY MR. RASHES:

Q Upon receipt of Division Exhibit 13A through 13C, did you analyze the trial balance and prepare a net capital computation analysis?

A Yes.

Q What did you use in your analysis?

A The supplied schedules and trial balance.

Q What was the result of your analysis?

A A deficiency of approximately $9,800.

Q Is that total deficiency?

A Total.

Q I show you Division's Exhibit 13D and ask you what is it?

A This is my analysis and a reprising of the inventory.

Q Mr. Kanoff, is it fair to say that this was based on Division's Exhibit 13A through 13C, the -- and the pink sheets?

A Yes, sir.

MR. RASHES: I offer Division's Exhibit 13D into evidence, your Honor.

MR. TAYLOR: No objection.

JUDGE TRACY: Division's Exhibit 13D will be received in evidence.

(Whereupon, the document previously marked Division's Exhibit No. 13D was received in evidence, as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, did you request a trial balance and supporting schedules of December 31, 1971, from the firm of Sloan & Co.?

A Yes, I did.

Q Did you receive a trial balance and supporting

schedules?

A Yes, I did.

Q Approximately when?

A Mid-January.

MR. RASHES: Mr. Reporter, would you please mark the following documents?

Two-page schedule, Division Exhibit 14A.

(Whereupon, document above-referred to was marked Division's Exhibit 14A, for identification as of this date.)

MR. RASHES: Three-page schedule, Division's Exhibit 14B.

(Whereupon, document above-referred to was marked Division's Exhibit 14B, for identification, as of this date.)

MR. RASHES: A one-page schedule, Division's Exhibit 14C.

(Whereupon, the document above-referred to was marked Division's Exhibit 14C, for identification as of this date.)

MR. RASHES: A two page schedule, to be marked as Division's Exhibit 14D.

(Whereupon the document above-referred to was marked Division's Exhibit 14D, for identification, as of this date.)

MR. RASHES: Thank you, Mr. Reporter.

BY MR. RASHES:

Q I show you what has been marked as Division's Exhibit 14A for identification, and I ask you, what is it?

A A trial balance of the Sloan firm as at December 31, as supplied by the firm.

Q I show you what has been marked as Division's Exhibit 14B, for identification, and ask you what that is?

A A schedule of the firm inventory as at the same date.

Q I show you Exhibit -- what has been marked as 14C, and ask you, what is that?

A A schedule of the failure to deliver for the year end.

Q These were received from the firm of Sloan & Co.?

A Yes, they were.

MR. RASHES: I offer Division's Exhibit 14A, 14B and 14C into evidence, your Honor.

MR. TAYLOR: No objections.

JUDGE TRACY: Division's Exhibits 14A through 14C will be received into evidence.

(Whereupon, documents previously marked Division Ex. 14A - 14C were received in evidence, as of this date.)

BY MR. RASHES:

Q Upon receipt of Division's Exhibit 14A, 14B and 14C, did you make a net capital computation and analysis of the documents?

A Yes, I did.

Q What did you rely upon in making your analysis?

A The supplied trial and schedules, and --

May I look at this to see if I used the pink sheets?

Yes, I used the pink sheets.

Q What were the results of your analysis?

A A total deficiency of approximately $13,500.

Q Mr. Kanoff, I show you what has been marked as Division's Exhibit 14D for identification, and ask you, what is this exhibit?

A This is my analysis and the refigured trading position.

Q Mr. Kanoff, is it correct to assume this was based on 14A, 14B and 14C, and the pink sheets?

A Yes.

MR. RASHES: Your Honor, I offer Division's Exhibit 14D in evidence.

MR. TAYLOR: No objection.

JUDGE TRACY: Division's Exhibit 14D will be received in evidence.)

BY MR. RASHES:

Q Mr. Kanoff, did you request a trial balance and supporting schedules for the period ending January 31, 1972?

A Yes, sir.

Q Did you receive that?

A Yes, sir.

MR. RASHES: Mr. Reporter, would you please mark the following documents? Two-page document, Division Exhibit 15A.

(Whereupon, the document above-referred to was marked Division's Exhibit 15A, for identification, as of this date.)

MR. RASHES: Two-page document, Division Exhibit 15B, for identification.

(Whereupon, the document above-referred to was marked Division's Exhibit 15B, for identification, as of this date.)

MR. RASHES: A one-page document, Division's Exhibit 15C for identification.

(Whereupon, the document above-referred to was marked Division's Exhibit 15C for identification as of this date.)

MR. RASHES: A two-page document with adding machine tapes attached thereto, as Division Exhibit 15D.

(Whereupon, the document above-referred to was marked Division's Exhibit 15D, for identification as of this date.)

BY MR. RASHES:

Q I show you, Mr. Kanoff, what has been marked as Division's Exhibit 15A for identification, and ask you, what it is?

A Trial balance of the Sloan firm, as at January 31, '72, as supplied by the firm.

Q I show you Division's Exhibit, what has been marked as 15B, and ask you what that is?

A A schedule of the trading position as at the end of January.

Q Supplied to you by the firm, sir?

A Supplied by the firm, yes.

Q I show you what has been marked as Division's

Exhibit 15C, and ask you what that is?

A A schedule of the failure to deliver as at January month-end, as supplied by the Sloan firm.

MR. RASHES: Your Honor, I offer into evidence, Division's Exhibit 15A, 15B and 15C.

MR. TAYLOR: No objections.

JUDGE TRACY: It will be received in evidence.

(Whereupon, documents previously marked Division Ex. 15A - 15C were received in evidence, as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, upon receiving Division's Exhibits 15A through 15C, did you prepare a capital computation analysis?

A Yes.

Q What was this capital computation analysis based on.

A Based on the foregoing schedules and trials and if I might look at this -- yes =-- and pink sheets, also

Q What was the result of your analysis, Mr. Kanoff?

A A total deficiency of about $700.

Q Mr. Kanoff, I show you Division's Exhibit 15D

and I ask you, what is it?

A My analysis of the trial and the reprising of the inventory.

Q Mr. Kanoff, what did you rely on to come up with your analysis?

A The several exhibits we just mentioned and the pink sheets.

MR. RASHES: Your Honor, I offer Exhibit 15D into evidence.

MR. TAYLOR: No objection.

JUDGE TRACY: Division's Exhibit 15D will be received in evidence.

(Whereupon, documents previously marked Division's Ex. No. 15D was received in evidence, as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, after arriving at the result of your analysis, did you subsequently adjust your computations?

A Yes, I did.

Q Why did you adjust your computations?

A One item was carried as Samuel Sloan Deposits, or S. H. Sloan deposits. I had considered those as a liability. After discussion with Mr. Raylor, we agreed that those were, in fact, capital contributions, and I readjusted the numbers to reflect it as capital rather

than as a liability.

MR. TAYLOR: I won't interrupt the questions, but may I just ask a question?

Is it that the exhibits we agreed to and stipulated to and offered no objections into evidence, were the ones that contained certain errors that we, at a later date resolved, that should have been corrected?

MR. RASHES: I don't like the classification of them as errors. I think Mr. Kanoff explained that they were based on what the books and records said they were based upon, but in conversation with Mr. Taylor, and Mr. Sloan, he readjusted them.

We are now going to get to the readjusted figures. There will be evidence to tie in all the figures to show the adjustments that were made .

MR. TAYLOR: Will I be correct in assuming that the exhibits that have been offered up through No. 15 are the uncorrected or unadjusted, if you prefer, schedules andc omputations of net capital and deficiencies, is that correct?

MR. RASHES: That is not even entirely correct because, basically a large part of these exhibits bore no corrections, no adjustments. There were adjustments made to July 31 figures, the August 31 figures, the December 30 figures, the October 8th figures, the November 30 figures, and the December 31 figures, and

I will go into what that is with Mr. Kanoff at this point.

MR. TAYLOR: Is there seven out of the eight dates we looked at are to be corrected?

MR. RASHES: I wouldn't say seven out of 8.

MR. TAYLOR: These seven dates, you just recited, Mr. Rashes, they contain error or adjustment of some kind.

THE WITNESS: Mr. Rashes --

MR. RASHES: We still -- we still will not,- when this evidence comes in, you will still see there are still net capital deficiencies. This relates to an item which has been brought to our attention at a later date, through conversations with Mr. Sloan and Mr. Taylor, and adjustments have been made which if I am allowed to do, I will proceed and put in the adjustments, and then Mr. Taylor will have full knowledge of a judgement. He's gotten this chart already.

MR. TAYLOR: This is matters for summation. It doesn't belong at this point of the hearing, as to whether or not deficiencies will or will not exist. We are looking at the evidence, now.

JUDGE TRACY: I think I can allow him to testify as to what adjustments he made upon consultation with you.

MR. TAYLOR: Well, I am rather pleased that he

would accept my suggestions as requiring adjustment.

MR. RASHES: We always bend over backwards.

THE WITNESS: May I relate a conversation pertaining to this particular item that I had with Mr. Taylor.

JUDGE TRACEY: Not unless you are asked for it.

BY MR. RASHES:

Q Mr. Kanoff, did you have a conversation with Mr. Taylor, pertaining to this particular capital item.

A Yes.

Q Will you please relate this conversation?

JUDGE TRACY: What are we talking about?

MR. RASHES: The adjustments and the reason for.

JUDGE TRACY: What date?

BY MR. RASHES:

Q When was this conversation had?

JUDGE TRACY: What adjustments?

MR. RASHES: I am going to get into that. Adjustments started with the trial balance of January 31, August 30, --

JUDGE TRACY: In other words, there came a time when you and Mr. Taylor discussed all of these capital analysis computations that you made?

THE WITNESS: Yes.

JUDGE TRACY: Explain that.

THE WITNESS: Well, there came a time when Mr. Taylor and I sat down and we went over the various figures and Mr. Taylor at that point indicated that he agreed that there were capital violations, and he wasn't going to quibble over whether or not it was one number by $500, more or less, or a thousand dollars, more or less, and the chart that he's now holding is the synopsis of those adjustments.

JUDGE TRACY: You subsequently made adjustments to the schedules of these that you just testified to?

THE WITNESS: Yes. That was one of the items he requested.

JUDGE TRACY: Did you have a corrected schedule?

MR. RASHES: Yes, your Honor.

BY MR. RASHES:

Q Mr. Kanoff, you stated that this was a deposit that you had not treated as capital -- how had you treated it prior to discussion with Mr. Taylor?

A In my earliest conversations with Mr. Sloan, it was my understanding from him, incorrect though it might have turned out to be, that these were moneys he had put into the firm and expected to get back.

As, in that sense, I treated them as a liability of the firm. After the conversation I had with Mr. Taylor,

we agreed that they were capital deposits by Mr. Sloan, and the chart of adjustments reflects the $800, for the most part although there is a different number at different times, giving credit for those numbers as capital rather than liability.

JUDGE TRACY: Treating them as capital, would that reduce the net capital deficiency?

THE WITNESS: It would reduce the deficiency.

MR. RASHES: Mr. Reporter, would you please mark this schedule as Division's Exhibit 16.

(Whereupon, the documents above-referred to were marked Division's Exhibit 16, for identification as of this date.)

BY MR. RASHES:

Q Mr. Kanoff, I show you Division's Exhibit 16 for identification. As to what date did you commence adjusting the capital confirmations of the firm, Samuel Sloan & Co.

A Right back to January of '71, although the first time that a change occurred was in July I have '71.

Q What was the original figure and what was the changed figure, Mr. Kanoff?

A The initial computation was a deficiency of $70,864 and some pennies, and I reduced that deficiency to only

$70,064 and some pennies.

Q Were there any other adjustments made in subsequent months?

A In August of '71. and an initial deficienct of $16,588, was reduced to only $15,000.

Q Any others, Mr. Kanoff?

A In September, the initial computation deficiency of $11,529 was reduced to $10,729.

Q Any others, Mr. Kanoff?

A August -- excuse me -- October 8, the initial computation of $3845 deficiency was reduced to a $7545 deficiency.

October, the initial --

MR. RASHER: We are not going tooffer October 29. We are not going to offer in this chart March 31, and when we offer it, there will be other exclusions which don't pertain to evidence that is in the trial at this point.

To try to circumvent any objections, the only thing we are offering it to is based on adjustments made on capital computations which are in evidence at the present time.

Q Please go ahead.

A November 30. The initial computation of a deficiency of $9810, reduced to $4, 010 deficiency, sir.

December 31, '71, a $13,480 deficiency was reduced to a deficiency of $4557.

Q Did you adjust the figures you received on January 31, 1972?

A I don't think so.

Q Division's Exhibit 15D?

A I don't recall.

Q Would you like to see that exhibit?

A If I may.

No, that one was not reduced. That one I took the S.H. Sloan deposit account as a capital item.

Q So the January 31 trial balance and the subsequent analysis was treated after your discussions with Mr. Taylor and Mr. Sloan, and you treated that as a capital item.

A Yes.

Q Mr. Kanoff, I show you Division's Exhibit 16, for identification, and ask you what is it?

A This is a chart of 10, 11 months that I had trial balances for, eliciting out various -- the various pertinent portions of the analysis, showing the original computation and the new computation after the changing was made.

Q What was this chart based upon?

A The analysis that I made on the trial balances

that had been submitted.

Q Was it also based upon the other records you had received, trial balances and supporting schedules?

A Absolutely.

MR. RASHES: I offer this in evidence, at the same time, offering it, excluding the figures as of 3/31/71, adjusted, as of 10/29/71, as as adjusted, and the notation on the bottom as to possible trading losses which were not getting into here.

MR. TAYLOR: Can we remove the bottom notes as not being applicable to the exhibit?

MR. RASHES: I will fold it over like that, and put a clip on it. I think the record would be specific on the bottom of this exhibit, there are items one through 7, sentences dealing with affairs, as Mr. Sloan's capital contribution. And --

MR. TAYLOR: I thinkit's sufficient, your Honor, there, they are not in evidence, so they can be deleted.

MR. RASHES: I don't want to rip it up.

MR. TAYLOR: Tear it off with a ruler. I will give you a ruler.

JUDGE TRACY: Aren't you going to photostat that anyway?

MR. RASHES: We can do it that way.

JUDGE TRACY: Photostat the pertinent parts.

MR. TAYLOR: No objection, then?

JUDGE TRACY: Division's Exhibit 16 will be received in evidence.

(Document previously marked Division's Exhibit 16, was received in evidence, as of this date.)

BY MR. RASH:

Q Mr. Kanoff, earlier in your testimony today, you stated that when you went to the firm of Sloan & Co. in August, you detected that there were new business transactions by Sloan in July, August and September.

How did you know this?

A Well, at the times of those visits, there were confirmations about, as I mentioned before, runners coming in, and telephone conversations that I overheard.

MR. RASHES: Would you please mark this as Division's Exhibit 16A for identification.

(Whereupon, the document above-referred to was marked Division Exhibit 16A, for identification, as of this date.)

MR. RASHES: Thank you.

Q Mr. Kanoff, I show you Division's Exhibit

16A and ask you what is it?

A This is an analysis I made of the trading accounts of the firm, July month end, August monthend, and September month-end.

Q What was that based upon, Mr. Kanoff? What was that analysis grounded on?

A Based on the trading inventory as submitted with those three trial balances.

Q Based upon anything else, Mr. Kanoff?

A No.

Q Mr. Kanoff, based upon your schedule, did you discover any new business being entered into by Mr. Sloan in the summer months?

MR. TAYLOR: Objection, your Honor.

Does that schedule purport to show new business?

What precisely was the question?

MR. RASHED: New trades.

MR. TAYLOR: I think that's a leading question, your Honor, objecting to it.

JUDGE TRACY: I will allow it.

Overrule the objection.

A Well, in comparing the three months, and the positions that appeared when submitted to me, it indicated to me, anyway, that there were 8 -- at least 8 new positions taken.

Q When you say at least 8, were there possibly more?

A Yes, possibly more.

However, with the five day settlement -- with the five day settlement, I gave Mr. Sloan the benefit of the doubt as not taking them as new trades, because it's possible he had entered into a transaction prior to the month-end, where it would not show on that given month-end. And it would appear as possibly a new position, on the second month. I discounted those altogether. Only where there was a definite change in position, for instances, from a long position to a short position, did I consider it as a new trade.

Or a new position.

MR. RASH: Excuse me, one second.

JUDGE TRACY: Off the record.

(Discussion off the record.)

JUDGE TRACY: On the record.

BY MR. RASHES:

Q Mr. Kanoff, did you consider these new positions liquidating positions?

M,R. TAYLOR: Objection, your Honor. That's asking for the opinion of the witness.

MR. Rashes: I believe the witness has been qualified as an expert at least in security transactions,

and securities dealings.

JUDGE TRACY: He hasn't been qualified as an expert, but I will overrule the objection.

(Question read.)

A No.

Q Mr. Kanoff, I notice on your chart you had certain things written in the margin. I would just like an explanation. Question marks? What are the question marks ?

A Those items that I have the markings on, are those that it's possible for the trade to have been done just prior to the month end, and would not have been reflected in July, as a long or short position.

Q What are the new, what does the word new stand for?

A Those are the positions I considered as new positions.

Q Q What is new to J. S. Love? What does that mean?

A That one in particular was a new position that was taken and that item in particular was one of the items that was delivered over to J. S. Love & Co.

MR. RASHES: Your Honor, I offer Division's Exhibit 16A for identification into evidence.

MR. TAYLOR: Your Honor, we will get copies of all of these tomorrow sometime?

JUDGE TRACY: Of course.

A This is your letter.

MR. RASHES: Could I see what the letter is?

MR. TAYLOR: Exhibit 7B, my letter to Samuel Sloan, dated July 28, sir.

MR. RASH: Okay.

A We have examined your books and records as at June 30, '71, and in this connection, we attach hereto the answers to financial questionnaire, which we have prepared in accordance with the form and requirements of Rule 17A5, and of the Securities and Exchange Commission.

Q Would you also --

A That's definitely the form and requirements of 17A5.

Q Thank you.

D Did you also, in that exhibit, do you recall reading a letter sent by the SEC, addressed to Robert W. Taylor, and Co., in reference to the June 30 information?

A Yes, I saw this.

Q Would you tell me what that --

A It's a letter of acknowledgement, receipt is acknowledged, for report of the financial conditions.

Q Would you be so kind as to read the first paragraph, starting with "Dear Sir".

A "Receipt is acknowledged of report of financial condition as at June 30, '71, of the above noted broker-

dealer, which is certified by you and filed pursuant to Rule 240.17A5 of the general rules and regulations under the 34Act.

Q Now, I ask you,Mr. Kanoff, is there also notations or space for notation on that letter from the Commission, to me, for any exceptions taken to the filing of that report?

A Yes, there is.

Q Is there any notation effected as to this question bot being accepted under the Rule 17A5, none?

A None whatsoever, according to this acknowledgement.

Q Do you have any knowledge, was there any notice given to me or to Mr. Sloan, that this was not acceptable for a filing, under X17A5?

A I have no knowledge of that.

Q Are you familiar with the consent order of the preliminary injunctions issued out of the U. S. District Court for the Southern District of New York.

A So what,sir?

Q One moment.

MR. TAYLOR: Mr. Rashes, would you stipulate this is a true and correct copy. I received it from you?

MR. RASHES: If you received it from me, I assume it's a true and correct copy. I will so stipulate.

MR. TAYLOR: Could wehave this marked on behalf of Sloan, as our number A?

JUDGE TRACY: Yes.

Respondent's Exhibit A.

(Document above referred to marked Respondent's Ex. A for identification, as of this date.)

BY MR. TAYLOR:

Q Mr. Kanoff, in your prior testimony had you stated that the June 30 figure was under the direction of the Court as evidenced by the consent order?

A I believe I did, yes.

Q I now hand you Respondent's A, and could you tell us where in this order there is any question or any notation that the filing cannot qualify under the rule, 17A5?

MR. RASHES: Your Honor, Mr. Kanoff is not an attorney, and I believe this calls for a legal conclusion, based on a legal paper, so I object.

JUDGE TRACY: Ask whether the order says anything in there ; don't ask for a legal conclusion.

A No, it wouldn't say anything in here as far as qalifying.

Q Would you state the basis, please, in your

your prior testimony, that stated that this did not qualify under the rule, 17A5, sir.

A That decision was not mine, Mr. Taylor.

Q I show you -- I ask you, now, who made that decision?

A A I believe it was Mr. Joe Barton.

Q What date did he make that decision, please?

A I don't recall that date.

Q Did you know whether it was -- do you know if it was in or around the time it was received?

A I really don't recall.

Q Do you know whether he was still an employee of the Commission at that time.

A It would have been prior to his retirement.

Q Do you know if it was done within the year, 1971?

A I'm sure it was, but I couldn't give a date.

Q Did you have any conversation with Mr. Barton concerning it?

A None that I recall.

Q Then, how do you know that he was the one who made the decision.

A Because it would have been his decision.

Q Are you concluding he did, or are you stating for the record that he did?

A I will state for the record that it is my assumption that it was his decision.

MR. TAYLOR: Your Honor, I would ask that the prior testimony of this witness regarding this questionnaire as filed did not comply under the rule --

THE WITNESS: I didn't testify it didn't comply. I said it wasn't accepted.

MR. TAYLOR: I would ask his testimony on the entire point be stricken, in view of the fact he now states he merely concludesthat must have been the decision.

MR. RASHES: This is Mr. Kanoff's testimony, your Honor. I can't say it should be stricken, because this is the way it was treated by the office. He testified as to how it was treated. He analyzed it and this is how he treated it based on instructions he received from someone in the office.

MR. TAYLOR: He will not identify the person.

MR. RASHES: He identified Mr. Barton, because that was Mr. Barton's function, at the time. Whether or not he did make this conclusion, I think Mr. Kanoff testified he didn't recollect or doesn't know, but basically, in the normal course of business, that it would be Mr. Barton's decision.

MR. TAYLOR: Are we stating the objection to my

motion was that the witness doesn't know who gave him the instruction to handle the matter in that way.

JUDGE TRACY: I think a more basic question is whether this was ever received by the SEC as a 17A5.

MR. TAYLOR: This is my next line of questioning, but I will postpone the motion until I have completed this.

Q Would you take a look at the documents contained in that exhibit, sir?

A Certainly, sir.

Q Do you see the stamp, recorded at the top of it?

A Yes.

Q Would you read it for us?

A July 29, 1971, received New York Regional Office of the Securities and Exchange Commission, and filed.

Q As cover for the letter of enclosure we spoke about before, over my signature.

A I believe so, sure.

Q Does it cover the list of securities attached?

A Yes.

Q As at the order date?

A Yes.

Q Does it cover the computations of the net capital and aggregate indebtedness as of that date?

A Yes, it does.

Q In your experience and in your knowledge, Mr. Kanoff, is this the type of stamp that is affixed to a filing accepted under the rule, 17A5, in the normal course of events.

A Will you allow me to answer that question, fully, sir?

Q Yes, sir.

A It is the normal procedure when this form comes in, this is the prescribed 17A5 form, as I indicated earlier.

This goes to a clerk, who will automatically stamp it in, then before anybody in any authority sees it, the acknowledgement letter is sent and the items are already stamped.

By the time it got to my desk, the decision had already been made that this was not to be accepted as a 17A5 filing, but merely as the audited report pursuant to the Court order.

JUDGE TRACY: May I see it?

THE WITNESS: Hundreds of these things come in the mail every day. The clerk opens the envelope, stamps it.

JUDGE TRACY: But the question that interests me, also, is why wasn't this accepted as a 17A5, regardless of whether the court ordered it to be filed or not.

THE WITNESS: That was not my decision. I don't know why.

JUDGE TRACY: Does it comply with the 17A5 requirements? You just testified --

A Yes, it would have complied.

MR. RASHES: Mr. Tracy, if I may be heard, I believe Mr. Sloan filed it, a 17A5 report for 1971, already, and he couldn't file two for 1971. He had filed a 17A5 report for 1971. as we have gotten testimony from the -- this morning on cross of Mr. Bruder, with the accountant in New Jersey, I forget his name, Mr. Taylor, as of January 28, that it was filed sometime in March for 1971.

It was filed in March for 1971. He cannot file two 17A5's for the year, 1971.

JUDGE TRACY: Why not?

MR. RASHES: This is also pursuant to an injunction.

That is the main reason it was not treated as a 17A5.

Was in line and in light of Page 3, it is further ordered under the clause -- it is further ordered, A, b and C, and that's the way it was filed with the office, and that's the way it was treated with the office.

MR. TAYLOR: Your Honor, there's nothing in this

partnership.

Q Have you asked that of Mr. Iny?

A We asked that of Mr. Iny.

Q Did you ask him that?

A I believe I was present when that question was asked.

Q What was his response?

A His response was that he had never advanced monies for a partnership.

He had a total of approximately $100,000 with the Sloan firm, in both cash and securities.

Q Did you question him directly as to whether the purchase of the Kaiser Steel was utilized or paid from the $58,175 of credit balance?

A I don't believe that I asked him that question, no.

Q If that be correct, and if subsequent testimony will prove it to be correct, Mr. Kanoff, would you then say that the February 26th schedule E would be in error in the form of its computation, then?

A It would be in error in that Mr. Sloan would be getting some 60 odd thousand dollars additional capital that he would not have been entitled to on this computation.

Q Is that correct? Are you sure of that?

A Yes, because I would have taken the stock away fom his trading account.

Q Would you also not have to take the proceeds of $58,000 and apply it to a purchase by a customer of those securities?

A No. That would be a customer credit balance then, as an AI liability.

Q If the proceeds are to be used for paymet of those securities and if the securities are removed from the trading position -- and reflected as a customer account?

A The other side of that coin, the customer records --

Q May I just finish?

A Yes.

Q Directing your attention to this one question, if the Kaiser Steel is a purchase by a customer, in the amount of a debit of 64,000,and the customer has advanced funds of $58,175, for his account, are you suggesting that the two accounts should then be viewed separately for purposes of computation of the ratio and aggregate indebtedness?

A What zI would suggest --

Q You can answer that yes or no, Mr. Kanoff.

You may say yes or no to that question, please.

A You don't suggest a yes or no. You suggest a procedure.

Q I will ask the question again, if I may, then.

A Certainly.

Q If the Kaiser Steel of $64,000 is a purchase by Mr. Iny as a customer, and he has paid in to the firm the sum of $58,175, as a customer, ard if the proceeds are to be used in his account, I ask you --

A Deposited, not the proceeds.

Q Deposit of $58,175, would those two items not appear in the customer account of that individual?

A They should show in that customer's account.

Q And they would under the circumstances I described then, is that correct?

A If it were customer purchase, yes.

Q If that be so, would you not then in your February 26th computation make a series of corrections, example, delete $64,000 from the long position?

A Right.

Q Delete $58,175 from liabilities and aggregate indebtedness?

A Yes, except for one possible situation.

Q Thank you.

Would it then necessitate --

MR. RASHES: Your Honor, he was in the middle of an answer.

JUDGE TRACY: I am going to let Mr. Taylor finish, but I am about to cut him off on this line of questioning.

MR. TAYLOR: It is very significant.

JUDGE TRACY: It has no relevancy.

If the dog hadn't stopped him he would have caught the rabbit.

This line of questioning that you are asking him, he bases his testimony on information he got from the firm.

He got $58,000 cash advance, and there were certain securities supposedly bought by some investor.

If the 58,000 belonged to the investor instead of the firm, then naturally the calculation would be different.

That doesn't mean that Mr. Kanoff made a wrong -- you are talking about errors in his calculation.

That is not an error. Naturally the calculation would be changed if you changed the facts.

All you are doing is going through a long recitation of change of facts if something had happened.

I am being very patient, I am going to allow you to finish the questioning on this, but if you are going

into this on every net capital computation, I am going to cut you off.

MR. TAYLOR: I believe Mr. Kanoff had stated that at the time this was prepared, that was his understanding of the facts.

JUDGE TRACY: That's why heprepared it that way.

MR. TAYLOR: No objection to that.

JUDGE TRACY: If he had a different understanding of the facts, he would have prepared it differently.

MR. TAYLOR: He did get additional information from Mr. Sloan subsequent to the date of this preparation.

JUDGE TRACY: This one is the way he came up at that time. There was a net capital deficiency based on the preparation of the facts furnished him, right?

MR. TAYLOR: Correct.

JUDGE TRACY: You are saying at some subsequent time Mr. Sloan or somebody else produced additional information which might result in a change of the net capital computation, if he had known about it, right?

MR. TAYLOR: No.

I will state further than that, your Honor, and I would ask you to look at Exhibit 6E, and you will find that in the trial balance submitted by Sloan, he did

not include the Kaiser Steel in his position.

Mr. Kanoff did that based upon a limited understanding at the time.

JUDGE TRACY: I didn't understand that.

MR. TAYLOR: I will show it to you.

THE WITNESS: This is the machine run that Mr. Sloan supplied to me.

JUDGE TRACY: He gave you credit for both of them.

Off the record.

(Discussion off the record.)

JUDGE TRACY: On the record.

BY MR. TAYLOR:

Q Mr. Kanoff, on the date of February 26th, based upon information that you had learned of subsequent to the date of the original preparation of Exhibit 6E, could you tell us, are there any changes that would be effected therein?

A Well, there would be a change -- at least one change, with reference to the trading account.

However, excepting that fact, where there might be change due there, the entire trial would be an exercise in futility, because if one item is wrong, I don't know about the veracity of the rest of the statements.

Q That may be so, but the answer to the question

is that the trading account position would necessitate a change?

A Yes, it would.

Q Is that correct?

A Yes.

Q Fine.

Would it also necessitate a change in the computation of the net capital, in the haircut?

A By virtue of the haircut, yes.

Q If the loan payable to Joseph Iny, as you subsequently learned, or based upon your knowledge, is there any change to be effected there?

A If that number, that 58,000, were in a customer account, it would reflect then as a credit balance, and really make no change in the liability.

Because we don't know, I wouldn't have no way of knowing from the schedules supplied to me, when the Kaiser Steel would have been put into the customer's account.

Q Did you at any time have an opportunity to read the testimony of Mr. Iny before the Commission?

A I believe I did.

I believe I was present when he was interviewed.

Q Did he state anything in regard to Kaiser

visit, you noticed that he was "doing business," is that correct?

A Yes.

Q Did you state that the basis for making that conclusion was the fact that there were confirmations scatteredabout?

A Yes.

Q In a rather tidy or untidy manner?

A Yes, sir.

Q Could you tell us what -- did you observe in particular detail what those confirmations were?

A No, sir, except they were current dates.

Q How do you know that?

A Because they were current dates.

Q Did you physically pick them up and look at them?

A Yes. I physically picked it up and looked at that.

I don't recall the stock or the price, but within that day.

Q How many of those confirmations did you pick up and examine, Mr. Kanoff?

A Perhaps three or four.

Q How many confirmations were scattered around the office?

A-214

A Several hundred, I suppose.

Some boxed, some packaged, some loose.

Q Do you have any idea whether they were current or non-current?

A No.

Q You did not examine them?

A Some were even blank.

Q Did you examine them?

A I looked at some of the blanks, because they were different broker's confirms.

Q Did they appear to be dusty?

In your observance of the general --

JUDGE TRACY: I will allow it.

A I don't know if there is a rule against dustiness at this point.

JUDGE TRACY: He is basing his testimony on the --

A I noticed some of the shirts that were hanging were not pressed.

JUDGE TRACY: Some of the things he had been seeing if he had to blow the dust off the confirmations, it might indicate they were more than a day old.

MR. TAYLOR: Maybe two years old.

A Some were and some weren't.

Q How many were dusty and how many were not --

MR. RASHES: I object to this.

A-215

A Yes, sir.

Q Where were they visible in your view, sir?

A On the desk, on the floor, on the cabinet.

Q Were you working in Mr. Sloan's office?

A Mr. Sloan had one room, and we were all right there.

Q Could you describe the physical layout of Mr. Sloan's office, please?

A That was a room approximately square, Mr. Sloan -- the desk faced thedoor, the entrance to the room. There were two couches, I believe, or love-seat type couches, stuffing falling out.

There was a frame, I believe, or parts of a frame that would convert a couch to a day bed.

There were cartons of memo slips of some sort, confirmations.

There were coffee containers about.

There was a runner, I believe, dozing.

Q Is that the physical oayout that you are attempting to describe?

A The room I saw, yes.

Q That is rather unnecessary.

Could you just tell us what the room looks like?

MR. RASHES: I object to the badgering of the witness.

He was answering the question as fully as he was able to.

JUDGE TRACY: I think we'd like to get to the size of it.

A The dimensions of the room?

Q Of course.

A I would say it's about 15 by 15, perhaps.

Q Did you enter immediately from the hallway into the one single room?

A Yes.

Q Were there any cabinets there?

A Yes.

Q Did you observe any securities in the file cabinets?

A I believe Mr. Sloan opened the drawer and showed me some securities in the file cabinet.

Q But they were not visible until he opened the drawer?

A Those in the file cabinet were not visible.

Q Did you ascertain the purpose as to why the securities were on Mr. Sloan's desk?

A He says he was expecting to make delivery of those, or he had just gotten some of them.

Q Which was it?

A Both.

Q Both?

A Stock had come in, and stock was going to go out.

Q Do you know if Mr. Sloan had a safe in the office?

A I don't know.

Q Do you know where he stored his securities, had a safe deposit box?

A He indicated to me -- I asked him if he had a vault. He indicated to me he had one at Chase, which on subsequent investigation was registered to the partnership of Sloan and Theodos.

Q Mr. Sloan have entry to that vault?

A I would assume so.

Q Do you know if he had access to that vault?

A I don't know.

Q Did you also state that you heard telephone conversations?

A Yes.

Q Would you state the substance of those conversations?

A They were quotes given or taken.

Q Quotes of what?

A Securities.

I don't recall the stock or the price.

Q Do you know if he was talking to another broker?

A I would assume so.

Q Do you know if he was?

A No, I don't know.

Q Do you know if he was speaking to anhone?

A Well, the phone rang.

Q Do you know if he was speaking to anyone, Mr. Kanoff?

A No. It is possible it was a deadline.

Q Thank you, sir.

A After it rang.

Q Did you -- you also stated that there were deliveries being made at the time.

A Yes.

Q Could you tell us what particular deliveries were being made?

A No, sir.

Q Did you assume that there were deliveries being made or did you actually see a delivery?

A I actually saw a delivery being made.

Q Describe it, please.

A A runner come in, put some stock down, Mr.

he had the blotters available for inspection?

A I don't know if I did it at that time.

Q Did you look to see if his stock record was available or inquire for it?

A Not at that time.

Q Did you inquire to examine copies of the confirmations?

A Yes.

Q Other than the ones you observed, did you ask for specific confirmations to examine?

A No, I did not. Not for specific ones.

Q Did you ask to look at his checkbook?

A Yes, I did.

Q Did you receive the checkbook to examine?

A Yes, I did.

That was the other evidence of business being done, that you cut me off on before.

Q Had you mentioned that in your prior testimony?

A You cut me off.

Q Have you mentioned that in your prior direct testimony?

A No.

MR. RASHES: Can I have the last question and answer read back?

JUDGE TRACY: Sure.

(Whereupon, the pending question was read by the reporter.)

Q Now, Mr. Kanoff, on the March 31st trial balance, is it correct to say that you received it on April the 8th; do you recall that date?

A If I may check my notes?

Q Sure.

A To my recollection, I received it on the 19th of April.

Q And the date of April 8th means nothing to you?

A April 8th was a visit to the firm.

Q So is it correct to state that on April 8th you visited the firm of Sloan and asked for the March 31st trial balance?

A Yes, sir.

Q That was then submitted to you on what date?

A April 19th.

Q Did you at that time in your visit to Sloan's office, ask for any of the books and records maintained by him?

A On the 8th, when I made that visit, I did ask for the books.

I was prepared to abstract the trial.

Q What was the information you received?

A That the trial was not ready, he was having a problem with his machine service.

Q Did he show you any records at that time, at all?

A Yes.

Q Will you describe those, please?

A The memo tickets that he would supply to the service, receive, deliver, debit or credit.

Q When you say memo tickets, you mean the accounting record necessary to get an input into a machine type of bookkeeping?

A The machine input record. I wouldn't call it an accounting record.

Q Is it the record that would create the input into the computer system?

A Yes, sir.

Q Could you tell me if they were current?

A I couldn't tell you if they were current.

Q Did you examine to see if they were?

A No.

Q Could you describe what those records were, please?

A Well, there were two kinds, as I recall.

A separate ticket allowing for -- a journal-type ticket allowingfor a debit and credit of the same

item between two accounts, and a larger sheet, where his entries would be marked on.

Q In your experience and from your familiarity with the type of record keeping, were they the usual kind of record you would see in a computer system, if you know?

A Yes.

JUDGE TRACY: Can we go off the record a minute?

MR. TAYLOR: Yes, sir.

(Discussion off the record.)

JUDGE TRACY: Back on the record.

BY MR. TAYLOR:

Q Now, Mr. Kanoff, did you then request an April 30th trial balance from Mr. Sloan?

A Yes.

Q What date was that that you requested it?

A I don't recall the date that I made that request.

Q Did you do it one time?

A Several, if I recall correctly.

Q Could you tell us when?

A I don't recall the dates.

Q Do you have any record?

A No, no.

You must understand that we were getting

trial balances almost momentary from Mr. Sloan.

There were so many that we asked for, we got all that we ever asked for but two, I believe.

Q How many times had you asked him for a trial balance, would you say?

A All told?

Q Yes.

In the period involved in the complaint.

A I would say that I asked him on the average of about three times per month, and how many months are involved in the complaint?

Q January to April, somewhere like 16 months, and that you received all the trial balances, is that correct, that you requested, but two?

A Right.

Q And --

A I would say there were about two to three requests for each one.

Q But you received them?

A Yes.

Q Some sooner than others, some longer than others?

A Yes.

Q Is it your testimony that the April 30th trial balance was never forthcoming from Sloan?

A-224

A That's correct.

Q Did you then go to his office to take over an April 30th statement?

A No, I did not.

Q Is there any reason why you did not?

A I believe I was directed not to bother to press him for the April figures.

Q Tell us who directed you that way.

A I believe it was Mr. Nortman.

Q Did you then request a trial balance on May 31st?

A Yes, I did.

Q Whatwas the result of that request?

A I never received that one, either.

Q Did you go to his office to attempt to examine records?

A No, I did not.

Q Was it similar to the prior instruction not to bother with it?

A Yes.

Q From Mr. Nortman?

A Yes.

Q Was any reason given for that?

A Not to me.

Q Did you then visit the office on June 9th of

1972?

A Yes, sir.

Q What was the purpose of that visit?

JUDGE TRACY: 1972?

Q 1971, pardon me.

A Thatwas to get the may trial, if it were available.

Q Could you tell us what happened on that visit?

A He did not have a trial available for me. He told me he had a problem with the service, or the service was having a problem.

Q Could you describe that conversation in a little more detail, please?

A Well --

Q What did he tell you was specifically the problem?

A I don't remember verbatim.

Q Generally.

A He told me he hadn't yet received it from the service.

So I went next door and inquired at the service bureau as to just what the problem might have been.

They told me that they had no problem, they had furnished him with a May Trial.

I went back to Mr. Sloan and said the service

sayd you have it.

I believe he told me well, he hadn't yet balanced it and didn't want to release it to me.

Q That is your best recollection?

A That is my best recollection.

Q Will you tell us the name of theperson to whom you spoke at the computer service?

A Not offhand I could not.

I believe I have his business card in my desk upstairs.

Q Would you produce us the card or the name, please?

JUDGE TRACY: I don't think that is relevant.

MR. TAYLOR: I would like to verify, your Honor, that that was the fact that he did deliver.

JUDGE TRACY: That is his testimony. He testified to that.

MR. TAYLOR: Your Honor, would I be precluded from finding with hom he had the conversation?

All I am asking him to produce is the name of the party.

JUDGE TRACY: He will produce the card.

Q If you can find it.

A Certainly.

Q Thank you.

A-227

me, Mr. Taylor.

Q I hand you Exhibit 8, with all of the subject letters, and could you tell me where you did receive these, please?

A I received them from you, Mr. Taylor.

Q Do you know if they are my handwriting?

A No, I don't.

Q If I represent that it is, would you acknowledge that it is in my handwriting?

A If you acknowledge that it is in your handwriting.

Q I represent it is my handwriting, sir.

A All right.

Q On July 31st, your request for trial balance to Mr. Sloan, was there any other information requested from him?

A Other than the supporting schedules, I don't recall.

Q Well, did you ask, for example, for copies of the fail to deliver and fail to receive confirmations?

A No.

That would be the schedules that I would ask for.

Q Is there attached to that exhibit, sir, copies of the fail to deliver and fail to receive?

A Yes, there are, yes.

Q Confirmations.

Did you also ask for a schedule of the long and short positions?

A Yes.

Q Is that attached?

A Yes.

Q Did you ask for a computation of the net capital?

A I don't --

Q As at that date?

A I don't believe I asked for the computation. I may have.

Q Do you know, Mr. Kanoff, if a meeting was held in the offices of the Commission around that time? Relative to Mr. Sloan's financial position or condition.

A I recall a meeting. I don't recall the date.

Q Were you present at thatmeeting, do you know?

A Yes.

Q Based upon the information supplied to you, did you then proceed to make a computation of the net capital as of the July 31st date?

A Yes, sir.

Q Does there exist differences in the security positions as submitted and as per your computation, on that date?

A I would have to see my computation.

Your question is a difference -- differences in positions.

Q Security evaluations, yes.

A Evaluations or positions.

Q Security evaluations.

A Let me see. Between mine and yours?

Q Yes.

A Yes, sir, there is a difference.

Q Are there a number of differences?

A I am just looking at the totals. There is approximately $8,000 differences.

Q Fine.

Would you tell me, please --

A On the long side.

Q Right.

Would you tell me how you established the valuations in your computation?

What reference did you use?

A The pink sheets.

Q Was that the only source you examined?

A If something in here was listed, I would have gone to the Wall Street Journal or the New York Times.

Q Just tell me what you did do, please, Mr. Kanoff.

A Let me go through this and see if there is any listed securities here.

Yes, there is at least one that I see that is listed.

Q Would you look on your schedule and see the valuation of it?

A I have BTB Corp, at $2 and a quarter.

Q You find --

A You have it at a dollar and a half.

Q Would you find any other securities that might be listed?

That is a plus, your Honor. We are taking that one.

JUDGE TRACY: I never argue with that.

MR. TAYLOR: No, sir.

A At the moment, I am not sure whether or not some other of these are listed or not.

Q Could you tell me, did you look to the Wall Street Hournal?

A Yes, I would have.

Q All right, sir.

Could you tell me, for example, the stock, Volpe Corp., where did you look to find that value?

A In the pink sheets.

Q Do you know if that stock is listed on a

securities exchange?

Like the American Stock Exchange?

A I don't know. I don'tknow for sure that it is listed.

Q Would you know at the time that it was listed on the New York Stock Exchange on, still is today?

A No, I don't know.

Q Would you tell us the value on your computation for that stock, please?

A I have no valuation for that stock.

Q And the reason was that you could not find it in the pink sheets?

A Well, I wouldn't have found it anywhere. Whereever I would have looked, I didn't find it.

Q Well, did you look into the Wall Street Journal on the American Stock Exchange listings --

A I don't recall.

Q Mr. Kanoff, you had previously testified that you used the pink sheets.

A Yes.

Q That was your direct testimony?

A Yes.

Q I asked you that question again, and you said the pink sheets.

With one exception?

A No. Not with one. With the exception of whatever might have been listed.

Q I ask you now, if you look to the WallStreet Journal, as a reference, to the American Stock Exchange listings, for the stock, 200 shares, Volpex Corp.

A I don't recall is my best recollection, sir.

Q Could you tell me, or explain to me, please, the procedure you used in selecting the valuation from the pink sheets to assess against a long position?

A We use the high bid and low offer, depending on being long or short.

Q If you had five bids, securities long, you had five bids of a dollar, and one bid of one quarter, what price would you use?

A The five bids at a dollar and one bid at a quarter?

Q Yes, sir.

A I would use a dollar.

Q In other words, you are saying then you don't use the high or low, you use the most representative bid?

A You said five at a dollar.

A dollarwould be the high.

Q I have five brokers in the sheets, each of them listing a one dollar bid in ABC.

A Right.

Q There is one broker bidding one quarter, one quarter per share.

What price would you use?

A One dollar.

Q Then, would you say that you do use the most representative bid of that day?

A No, sir. I would use the highest bid of the day.

Q Am I correct to say that you use then, if I understand you, that on the long side you use the highest bid in the pink sheet?

A Yes.

If one man is in at a dollar and a quarter, one at a dollar, and one at 75 cents, we would use a dollar and a quarter to give the broker the best possible valuation.

Q You always use the highest bid?

A Yes.

Q How about the short bid?

A The lowest.

The cheapest way for him to cover.

Q To cover the short?

A Yes, sir.

Unless of course the highest bid in the day belongs to the broker that's being valued.

Q Okay, Mr. Kanoff.

On the date of August 10th, did you then again visit Sloan's office?

A Yes, sir.

Q What was the purpose of your visit at that time?

A To see the books and determine if he was doing business.

Q What did Mr. Sloan tell you?

A About what?

Q About the books there.

A The bookshe told me were in your possession.

Q Did he explain to you why they were in my possession?

A He may have. I don't recall.

Q Would it help your recollection if he told you that the required information for July 31st was being prepared in detail at that time, and that's why I had the records?

A I don't recall.

Q You don't recall that?

A No.

Q You stated that on -- did you state that on August 10th you observed that Mr. Sloan was doing business?

A Yes, sir.

Q Would you tell us how you decided that?

A Again, current confirmations, telephone activity that I overheard.

Q Did you physically examine the confirmations?

A Yes, sir.

Q What were the confirmations that you examined?

A I don't recall the security or the price it was executed, but a currently-dated confirmation.

Q How many confirmations did you then see, Mr. Kanoff?

A I don't recall the number, sir.

Q Was it more than one?

A Yes, sir.

Q Was it more than five?

A Yes, sir.

Q Was it more than ten?

A I wouldn't recall that.

Q Was it less than ten?

A Perhaps between five and ten.

Q Where were they located?

A On his desk.

Q Were these purchase or sale confirmations?

A Both.

Q Would you tell us how many were purchase and

how many were sale?

A I couldn't tell you that. I don't recall.

Q You know there were at least five, but not more than ten?

A At least five.

I don't believe more than ten. On both sides of the market.

Q They were all on Mr. Sloan's desk?

A Yes, sir.

Q You have no idea whether or what the identity of the securities involved were?

A No, sir.

But let me just refresh myself from the notes.

There is one particular trade that does stand out in my mind.

Might have been one bond of something that I don't recall the issue, done with Americanada, another broker in the same building.

I am not sure if that is the date I saw that particular trade.

Q Was the confirmation, if that is your recollection, was the confirmation, when you say around the date, what is your definition of around the date in time?

A What I meant by that, I don't know if that was

the date of this particular visit.

Q What would the date have been, in your mind, when you say it was around the time of your visit, sir?

A I don't recall the date.

Q In other words, when you say that you visited on August 10th, and the confirmations were around the time or current, you can't define the time that you mentioned in that response?

A At least a day prior, because it would take that long to get the confirmation out of the service.

Q So, it was at least one day prior to the date of August 10th?

A If a physical confirmation had already been produced for my inspection, it would have had to have been done at least a day before.

Q Did Mr. Sloan hand you these to examine?

A No, sir.

Q Well, then, how did you come into possession of them?

A In speaking to Mr. Sloan, seated at his desk, they were on the desk.

As being part of the brokerage record it was available for my inspection.

I picked it up and looked at it.

Q Did you ask Mr. Sloan to present you the confirmation?

A I don't believe I did.

Q Tell us what were the phone conversations that you heard that time?

A Merely quotes being passed.

Q Can you tell us what they were?

A No, sir.

Q Can you tell us the stocks being quoted?

A No, sir.

Q Do you remember the quotes?

A No, sir.

Q Did he identify the party to whom he spoke?

A No, sir.

Q In fact, you know nothing about the conversations as such, is that correct?

A You might say that.

Q Would you say that?

A No, I wouldn't say that.

Q Tell us what you know, then.

A What I know is --

Q Who was the conversation with?

A In a brokerage office when the man picks up the phone and says Sam Sloan here, three and a quarter, an eighth, I assume he is talking about business.

Q You assume the conversations were for business, is that your assumption?

A That is my assumption, that is my statement.

Q You don't in fact know if it is so?

A That's possible.

He could have been talking to the luncheonette.

Q He could have been talking to the Securities & Exchange Commission?

A No.

We go elsewhere for quotes.

Q Do you mean to say that in your knowledge, the Securities & Exchange Commission has never called Mr. Sloan for a quotation on a security?

A To my knowledge, I don't know. I know I go elsewhere for quotes.

Q Then don't speak for the Commission, Mr. Kanoff.

Do you know if it has been done, yes or no?

A If Mr. Sloan has been called for quotes?

Q That's right.

A I don't know.

Q Now, when you visit -- did you again visit the office of Mr. Sloan on August 12th, which is two days later?

A Yes, sir.

Q What did you ask at that time?

A For the books.

Q Did you examine the books at that time?

A Yes, sir.

Q Did you observe that he was again doing business?

A Yes, sir.

Q How did you decide that?

A The same way, sir.

Q Would you tell us again, please?

A Telephone activity, confirmations on the desk.

Q Are these the type of telephone activities --

A Same kind. Same telephone activity.

MR. TAYLOR: May I get the question out, please, your Honor?

Will you admonish the witness to permit me to --

JUDGE TRACY: I don't have to admonish him.

Go ahead.

Q Were these the same kind of telephone conversations you testified to before?

A Yes.

Q That in fact you don't know if they really took place, or whether or not the telephone had someone at the other end?

A It took place.

MR. RASHES: I object to the form of the question.

Mr. Kanoff testified he heard the phone ring. He wasn't in the speaker or the wire to say what went on.

He testified to what Mr. Sloan said.

I wish you would admonish learned counsel to rephrase his question.

Q How long were you there, Mr. Kanoff?

A Perhaps 30 minutes.

Q How many calls did you see that he had at that time, to your recollection?

A Perhaps five.

Q Five calls?

A Yes, sir.

Q And they all consisted of hearing quotes or numbers exchanged, that sounded like quotes of securities, is that right?

A Yes, sir.

Q Did you observe any tickets strewn about?

A What do you mean by tickets?

Q Confirmations?

A There were confirmations, yes.

Q Were these current date or current time?

A Yes, sir.

Q How many were there?

A I'd say about 12 or 15.

Q Can you tell us specifically what confirmations they were?

A No, not specifically, sir.

Q Can you tell us if any of them were the ones that were there on August 10th?

A Yes. I would say that they were, because in talking to Mr. Sloan about those confirms, he stated to me that he hadn't yet confirmed any of his August trades.

Q Let me understand your testimony then, Mr. Kanoff.

You said that you examined confirmations.

A Yes, sir.

Q And then you now say that Mr. Sloan told you he did not confirm --

A Yes.

Q -- transactions for August?

A Yes, sir.

Q Then what records specifically -- would you describe exactly what you saw on the desk?

A I saw the unmailed confirmations.

Q How d you know they were unmailed?

A Mr. Sloan told me he had not yet sent them out.

Q Did you know they were unmailed in your prior

testimony?

A No, not until he told me they were unmailed.

Q In your prior direct testimony, when you mentioned the fact of examining confirmations, did you know they were not mailed at that time?

A Yes.

Q Why did you omit that from your testimony?

A Because the question at that time was, was he doing business, and the answer was yes, as evidenced by confirmations.

Not sending the confirmations is another situation.

Q Does that indicate that he was doing business, the mere fact there were confirmations laying on the table?

A Absolutely.

Q Is that your opinion, sir?

A If he had not made a transaction, he would not have written a memo to give to his service to produce a confirmation that he didn't mail.

Q Did you see those memorandums?

A No, I didn't see the memorandums.

I saw the end result.

Q You saw what you allege to be a confirmation, Mr. Kanoff.

A I saw the output confirmation.

Q Could you describe to us the confirmation then, as to what security it represented and to what dates?

A No, sir, I cannot.

Q Did you then receive the trial balance from August 31st?

A Yes, I did.

Q From Mr. Sloan?

A Yes, sir.

Q Did you visit the office to verify any of those numbers at that time?

A I don't recall.

Q Did you observe or know if he was doing business in the period from your last visit to August 31st?

A Yes.

By the difference in his figures.

Q What are those differences, please?

A I would have to see the two sets.

Q Would you ask the Commission to produce the two sets of trial balances he speaks of?

MR. RASHES: Which exhibits do you want, Mr. Taylor?

THE WITNESS: I want the August 31st trial balance and --

Q I presume July, Mr. Kanoff.

A July. July I have.

MR. TAYLOR: Just August.

JUDGE TRACY: 9A.

MR. TAYLOR: Better give him the whole thing.

(Documents handed to Mr. Kanoff.)

A Would you repeat the last question?

Q Yes.

I said, how did you conclude that Sloan was doing business in this period, and you said from the differences in the trial balances.

A Yes.

Q I ask you what specific differences do you refer to?

A Well, he paid out some checks, he made deliveries of stock that were fail to receive, he received stock that he was failing to receive.

Paying checks, receiving and delivering securities constitute transactions.

Q Do you know --

A I haven't yet compared the trading positions to see how much of a difference that was.

Q I don't need the detail. That's all right, sir.

At this point, and since you have knowledge of the conference I referred to before, do you know if

any of the activities that you described, were within the agreement reached at that conference?

A If any of these activities that I just described?

Q You broadly described the receiving and paying of cash, the receiving and delivery of securities.

I ask you, sir, since you were present at that meeting, was that activity that you described within the agreement reached at the conference?

A Not necessarily, sir.

MR. RASHES: I think it might be helpful if Mr. Taylor brings out what that agreement was, rather than talking in the abstract.

JUDGE TRACY: I will allow it.

Q I didn't hear your answer, Mr. Kanoff.

A I said, not necessarily.

Q Do you know if it was in fact within the agreement?

A Not at this moment.

Q You don't know at this moment?

A Not at this moment.

Q Is it correct to say you don't know at this moment whether he was doing business?

A He was doing business, but I don't know if he

was doing business in violation of the agreements we made at that meeting.

Q Fine.

Did you go over to Sloan & Co. to examine his books and records at that time?

A What time?

Q The time you received the August 31st trial balance.

A I don't believe I did.

I don't recall.

Q Would you again look to the schedule that you have before you, for the date of August 31st, and will you look to your computation under the net capital?

A Yes.

Q Would you look to your schedule of securities --

MR. RASHES: Excuse me oneminute, your Honor.

Q I would direct you to 200 shares, Volpex Corp., Mr. Kanoff.

A Yes, sir.

Q Would you state the value of it in your schedule?

A I have a zero value on the schedule.

Q Wouldyou tell me how you established that the security was valueless?

A I could not find the price for it.

Q Tell me where you looked, sir.

JUDGE TRACY: Don't we already have testimony on this stock, sir?

MR. TAYLOR: It's the next date.

JUDGE TRACY: The same stock?

MR. TAYLOR: Absolutely.

A I don't recall where I looked for it.

Q Did you look to the listings of the American Stock Exchange Securities for Volpex?

A I don't recall, sir.

Q Why did you assign a zero valuation for a listed security?

That's listed on the American Stock Exchange.

A Perhaps it didn't trade that day.

Q Did you look among the inactive listings?

A I don't --

Q Mr. Kanoff, if you simply made an omission, I will just say that. It's not --

A I don't recall.

Q Do you have a listing on your schedule of any shares of American Raceway?

330 shares of American Raceway.

A It would appear not.

Q Did you have a listing for 300 shares of Brooklyn Poly?

A It would appear not.

Q Would you tell me why they do not appear on your schedule, when they appear on the schedule that Sloan submitted?

A May I see the schedule that Sloan submitted?

(Document handed to Mr. Kanoff.)

MR. RASHES: Mr. Taylor, are we talking now about the 8-31-71 trial balance?

MR. TAYLOR: Yes.

A These are the photostats you supplied me, Mr. Rashes.

MR. RASHES: Of Mr.Sloan's records?

MR. TAYLOR: Yes, sir.

Q Is there any reason that you know of why they are not there?

A Possibly.

This is not the one I made the computation from, because this washed out blotter, I asked him to give me a new photocopy.

Q I have two copies here of those positions.

A I asked him for anew photocopy.

Q On one of them there is an obvious non-printing from the bottom of a page similar to what you have.

A Yes.

Q If you look through them you will find that those

securities are the two shares I mentioned.

Based upon that explanation, would you say at this point, examining these records now, that those securities do belong in the computation on August 31st?

A Yes, they would normally be there.

Q Fine, thank you.

A $1,500 worth.

Q Fine. Thank you.

Would you know if the Volpex Corp. stock traded at $1/4 a share for a total of $2,800, that that should additionally be there on that date?

A I don't know what it traded at.

Q If it is listed, it should be there?

A If that is the price it should be there, yes.

Q That is the price.

MR. RASHES: Your Honor, I am going to object to the last statement that Mr. Taylor made, that that is the price.

MR. TAYLOR: I will withdraw it.

JUDGE TRACY: He prefixed it by saying if.

MR. RASHES: Fine.

MR. TAYLOR: I will withdraw it if it is disturbing.

JUDGE TRACY: All right, withdrawn.

Q Now, did you again, on September 30th, Mr.

This is the schedule that was supplied by the J. S. Love firm, describing securities received from Sam Sloan, by them.

Q Are those securities listed therein on the trial balances of Sloan & Co. that we have been referring to up to this point?

A Up to this point?

Q We are now finished -- we are up to the date of October 8th.

A Well, may I just take a look through these?

Q Yes, sir.

A Well, there are -- this letter indicates that certain securities were delivered to the Love firm on August 11th and certain of these items appear as still being long on this trial that Mr. Sloan supplied as at August 31st.

Q Do you know if those are the same securities indicated on the list to Love, Exhibit 12, as on Sloan's trial balance?

A I don't have the certificate numbers.

Q My question was, sir, do you know if they are the same?

A Yes.

Q How do you know that they are the same?

A Well the DSI position has been the common

and preferred, has been Mr. Sloan's position for several months.

Q Does the fact that the number of total shares or total number of bonds would be the same --

A It is possible he bought additional stock in violation and delivered those.

Q Then I ask you, sir -- then I ask you, are you sure or do you know if the securities listed on Exhibit 12 are the same as listed in Sloan's exhibits?

A No, I don't.

JUDGE TRACY: Are they the same name, same amount?

THE WITNESS: Same name, same amount.

JUDGE TRACY: All right.

MR. TAYLOR: Is that your question, your Honor? I forgot to ask that one.

What prompted that was when he said he didn't have the certificate numbers.

I was trying not to ask that question.

Do you know, Mr. Kanoff, how these securities were received based upon this exhibit?

For what account, that is?

A No, I don't, sir.

Q Thank you.

Now, did you then receive also a trial balance

from Sloan, as at the November 30th date?

A Yes, sir.

Q Did you go to his office to examine his books and records at that time?

A I don't believe I did, sir, no.

Q Did you then examine the securities from a view of looking to the pink sheets on that date?

A I don't recall, sir.

I'd have to see the computation.

Yes, I used the sheets.

Q Okay.

Do you know of a security called Shareholders Excalibre Investing?

A The only time I have heard of it is on Mr. Sloan's position, and I understand that it is a foreign traded --

Q Do you know if it is in the form of a mutual fund security, that type of security?

A That is my understanding.

Q Do you know if you afforded any value on that date?

A I don't believe I ever allowed any valuation for that.

Q Why?

A It is not traded in this country.

Q Is it available for purchase in this country? Do you know?

A I don't know.

Q Did you investigate to see if it was?

A I asked a supervisor if I should bother looking into the foreign pricings for it, and I believe since it was only worth about $400 in total, I was told not to look.

Q But would it be correct to state that if it is available, that there is at least an additional capital to be ascribed to that share?

A If there is a going active market, I would say yes, a valuation should be applied.

Q Aren't there firms that specialize in foreign securities?

A Yes, sir.

Q And they are readily available simply by inquiring for purchase or for sale, directly?

A No, sir, not for valuation purposes.

Normally in a situation like that, we would want three independent market makers to submit quotations.

Q Are you suggesting if a pink sheee quotation is less than three brokers, there is no value?

A I am suggesting if something of this nature, a foreign-traded stock, is to be valued, we would require

three independent market-makers to submit quotes for us to determine a valuation for it.

Q Did you do that, sir?

A No, sir.

Q And you did it because your supervisor directed you not to?

A Yes, sir.

Q Who is that, Mr. Barton?

A I believe that was Mr. Rosenberg.

JUDGE TRACY: What date are we talking about?

MR. TAYLOR: November 30th, your Honor.

JUDGE TRACY: Okay.

Q Did there come a time, Mr. Kanoff, that you requested a trial balance as at December 31st?

A Yes, sir.

Q Did you receive it from Sloan?

A Yes, sir.

Q Did you go to his office to examine the records at that time?

A I don't believe I did, sir, no.

Q Do you know if you accepted the valuations as submitted by him on that date, in your computations?

A I don't recall, sir.

I'd have to see it.

MR. RASHES: What exhibit is that, Mr. Taylor?

MR. TAYLOR: December will be 15.

A I did use the pink sheets.

JUDGE TRACY: That is 15?

MR. TAYLOR: This is Exhibit 15, for December 31st, your Honor.

MR. RASHES: Exhibit 14 is for December 31st. 15 is for January, sir.

MR. TAYLOR: I beg your pardon. Make it 14. You are right..

JUDGE TRACY: You did use the pink sheets?

THE WITNESS: I'd have to see it.

Q It was 14, excuse me.

You know there were differences between the valuations that you determined as compared to the valuations submitted?

Would you tell us why in prior months you had accepted Mr. Sloan's valuation, but on certain dates you did not?

Any reason for that?

A This is a matterof expediency.

Q What does that mean, sir?

A In accepting Mr. Sloan's valuations, we were giving him the benefit of the pricing.

In all the other instances we had priced them lower on the long side and higher on the short side.

With the numerous, voluminous trial balances that we had from the gentleman, sometimes it was just a little bit faster not to bother to reprice them, realizing that he would be getting a benefit.

Q That would be the expediency you speak of, just faster or more convenient?

A And he would get a better pricing on it.

Q You would have saved him $2,500 capital if you did that in December, sir?

MR. RASHES: Your Honor, I believe that comment should be struck.

JUDGE TRACY: He still had a deficiency, didn't he, in December?

THE WITNESS: December, yes, sir.

JUDGE TRACY: Well, strike counsel's comment.

MR. RASHES: Thank you, your Honor.

MR. TAYLOR: I willwithdraw it, if it is upsetting.

Q Did you also on request receive a January 31st of 1972 trial balance from Mr. Sloan?

A Yes, sir.

Q Did you then go and examine his books and records at that time?

A No, sir.

Q Do you know what your computation showed in the

way of capital deficiency at January 31st date?

A I believe it was approximately $700.

Q Do you know if you had -- did you examine the pink sheets to independently --

A I don't know at this point, sir.

(Document handed to witness.)

A I used the sheets.

Q The answer is you did use thepink sheets?

A Yes.

Q Do you know how much difference in the total of security valuations your use of the pink sheets meant on January 31st?

A No. I'd have to see my computation. I'd have to see my computation.

(Document handed to witness.)

A Approximately $1,000.

Q Would that then have put him in ratio?

If the deficiency was 700, then he would have an additional thousand based upon his --

A A thousand less haircut.

Q Would he be in ratio then?

A Possibly.

Q On that date?

A Possibly.

If that were the only difference, he would be

right on the button.

Q Thank you.

He would have in effect $ plus, above the required capital, is that correct?

A No, sir. If I gave him another thousand dollars in security value, less a 30 per cent haircut, which would give him -- I said a thousand dollar difference. From 28 to 18 is a thousand, not 1800.

Q Well, let it stand at that. He would be on the verge of being in, if not in?

A Close.

Q Okay.

Did you go to his office?

A I don't believe I did, no.

Q Now, Mr. Kanoff, all of the exhibits that we have looked at, up through No. 15, contain in some form items that might be possibly adjusted and did you then prepare Exhibit 16?

A Yes.

Q To correct these matters?

A Yes, sir.

Q Does this schedule 16 include all of the matters we have now spoken about this morning, including the omission of securities or the differences?

A No.

Q They do not?

A It does not.

Q Now, I direct your attention to the exhibit number 16A.

JUDGE TRACY: Do you have it there?

THE WITNESS: No, I do not have it.

JUDGE TRACY: Off the record.

(Discussion off the record.)

JUDGE TRACY: Back on the record.

Is there a pending question?

MR. TAYLOR: No.

BY MR. TAYLOR:

Q Now, Mr. Kanoff, you have before you Exhibit 16A.

A Yes, sir.

Q That was prepared by you?

A Yes, sir.

Q What does that schedule represent, please?

A The schedule represents the month end trading inventories that Mr. Sloan supplied as at July month end, August and September, and the differences in positions betwixt and between those several months

Q I direct your attention to the first item called American Raceway --

MR. RASHES: That's the second item, Mr.

Taylor.

Q I didn't finish the question.

I direct your attention to the first item that is marked new.

A Yes, sir.

Q As I understand your prior testimony, that is a different position based upon your analysis than Sloan previously had?

A This is one of the items that was missed as a separate position.

That I would then say there are seven new positions rather than eight.

Q Fine, thank you, sir, you anticipated the question.

That item should be deleted?

A That should be deleted as a new item.

Q Thank you.

Now, the next item on the list, I am only going to address myself to the eight items called new, Mr. Kanoff.

The next item on the list is 25 shares of California Water.

A Yes, sir.

Q Did you inquire to Mr. Sloan as to what that item was?

A I believe we had some discussion about it.

Q Would you tell us the substance of that conversation, please?

A I don't really recall the substance of it, but I, in going through his records, I saw that there was a purchase and a subsequent sale of it.

Q Do you know the actual trade date of that transaction?

A No, sir. I'd have to check his records.

Q Would you know if it was the date that we appeared in the Commission office at the conference we referred to?

A I don't know.

Q You don't know that?

A No.

Q The next item is ten shares of Cynemation. Do you see that item marked new?

A Yes, sir.

Q Do you know if this transaction, if the reason for it being long ten shares that there was a buy-in prior to a completion of the transaction, that Mr. Sloan was not aware of, on the July 31st date?

Do you know that?

A No, I don't know that.

I don't know that has any bearing, either.

Q Well, let me ask you, Mr. Kanoff, what date did you use to establish the differences?

A Well, on that Cynemation in particular, I am calling the new position between August and September, not the July short position.

Q But if at thatpoint Mr. Sloan was in a position of owing shares --

A He owed a hundred and they bought him in 110.

Q Unknown to him in elimination of his short position, was it in any of our agreements, if he was bought in after he made another commitment to cover his short, would he not end up long?

A Possibly, yes.

Q Do you know if this is the situation here?

A I don't know that that is the situation.

Q Thank you.

How about the next item, management assistant bonds, 21,350.

A Yes, sir.

MR. TAYLOR: Just one moment, your Honor.

We didn't get this copy until this morning. That's the reason for the delay.

May we take five minutes, your Honor, just so I can go through these other few?

May we take five minutes?

Q Do you know if the Visual Electronic common stock, 413 shares, whether that also resulted from a buy-in?

A No, sir.

Q Did you make any attempt to examine as to why these new positions didn't develop?

A There was only one area that I could have considered, for that situation, and that would be Mr. Sloan's buy-in account, and just looking here at the August figures, there doesn't seem to be a buy-in account reflected.

Q What does that buy-in account represent, in your opinion?

A That buy-in account, knowing what the market was, and Mr. Sloan's particularposition, it would have reflected a loss.

Q Yes, but that particular buy-in account that you referred to from that exhibit you are looking at, what does that account represent?

A It does not appear in this exhibit, sir.

Q Then what buy-in account do you refer to?

A Had he been bought in, and I know from my experience, those buy-ins would have resulted in losses to Mr. Sloan, it would seem to me there should be something in his books reflecting that loss as a buy-in

A-265

account, because he has reflected buy-in accounts earlier.

Q That is what I am speaking of, do you know the nature of those debit balances in the buy-in accounts?

For example, do you know if they were items in protest, therefore a record had to be kept of them, for that purpose?

A No, sir.

Q Do you know that?

A No, sir.

Q Do you know if the, under the Sloan method of recording, if a buy-in, which occasioned a loss had developed, would you know if it would be charged off in the trading account loss?

A I have no knowledge of the Sloan method of recording buy-ins, sir.

Q That is not the only matter that you have no knowledge of, as well, regarding the Sloan activity.

MR. RASHES: I object to that statement.

MR. TAYLOR: It was merely in retort to his answer.

JUDGE TRACY: I will allow it.

MR. TAYLOR: Thank you, your Honor. I think it belongs in the record.

JUDGE TRACY: Mr. Taylor, proceed.

BY MR. TAYLOR:

Q So I ask you, Mr. Kanoff, do you know if the buy-in activity that would develop would be reflected in the trading account, and yes or no, please?

A Do I know if the buy-in activity would be reflected in the trading account?

Q As a loss or a profit, depending upon the nature of the buy-in.

JUDGE TRACY: You mean in the normal circumstances?

MR. TAYLOR: Yes.

A It could be treated that way normally.

Q That would be not an unusual treatment, would it?

A Not unusual treatment.

Q Would a buy-in caption appearing on the balance sheet be something unusual, in your opinion?

A No, sir, that would be a usual way of doing things, also.

Q What would that represent then?

A That would represent the unconsolidated figure at that point.

Q Would that represent an item in dispute or claim?

A It might.

A-267

Q What else might it represent then?

A I don't know what else it might represent, sir.

Q Wouldn't you say that it could only represent an item in dispute or claim, from your knowledge?

A Not necessarily, sir.

Q Then I ask you, what else could it represent?

A It could represent a loss that had not yet been journaled to the profit and loss account.

Q In view of your prior statement that the normal procedure and the, as I took it, Sloan procedur , would be to charge them off to the trading account, you make that statement now?

A No, sir.

Q Is that your opinion now?

A No, sir.

I am a bit confused with your question at this point, sir.

Q I asked you before what would be the usual procedure for writing or handling buy-ins.

A There are several.

Q Profits or losses?

A There are several acceptable ways of treating buy-ins, and Mr. Sloan has used one at one time and one at another.

Q What was the one he used at one time?

A At one time he reflected a buy-in account.

Q For what purpose?

A I don't know, sir.

All I know is what his books reflect.

Q Would tat represent a claim or an item in dispute, to your knowledge?

A To my knowledge I would have no knowledge of that, sir.

Q Then you can't say that it was in the regular or a regular routine or procedure at all, can you? You have no knowledge?

A I have no knowledge.

Q Did you ask Mr. Sloan prior to the preparation of this exhibit, did you ask him to explain these items that you note as new?

A This Exhibit meaning 16A?

Q Yes.

A No, I did not.

Q Is there any reason why you did not?

A No. I just didn't.

Q You were not instructed not to do so?

A No.

Q The final matter, we left yesterday on a point concerning the filing of the action 17A5, and

you had made a statement when we were off the record, and I would ask you to repeat it for the record now, in regard to the matter of 1970, annual report requirement?

A Would you repeat that, sir?

Q Would you please state, to your knowledge, the effect regarding the 1970 annual report of Sloan & Co., similar t the statement you made yesterday, off the record?

A I said it was my thought that the 17A5 report submitted by Mr. Leon as at 1971 date, was not accepted for the late -- for the 1970 filing.

Q What particularly did you say about that required figure then?

A I said it was my understanding, or my thought, that the 1970 late filing or non-filing, was not going to be made an issue.

Q Do you know--

A That was only my own opinion.

Q Did anyone discuss that with you?

A No, sir.

Q Had you heard that comment in your office?

A No, sir.

Q What made you draw that conclusion?

A I really couldn't say.

Q You just thought of it one day?

A I thought the entire situation with the Sloan firm was hinging upon his capital position, rather than the matter of filings being late or not.

Q To your knowledge, was that matter finally brought to a point in the meeting of July 31st date?

A Not to my knowledge.

Q About that?

A I have no recollection of that, sir.

Q Of that meeting, at all?

A Of the meeting, not in relation to the '70 or '71 filing.

Q Concerning his financial condition, was that discussed at the meeting?

A Yes.

Q You were present at that meeting?

A Yes, sir.

Q Do you recall the details of the agreement from the Commission side, as well as Mr. Sloan's side, at that time?

A Not the details, no.

Q Do you know if it was agreed that Mr. Sloan would be able to liquidate his positions?

A It was my understanding that he could liquidate, yes, sir.

Q Did you understand that he would be permitted to make deliveries of existing contracts?

Fail to deliver and receive contracts?

A I don't really recall that, but I would assume that that would be part of a self-liquidation.

Q Is there any other way he could have liquidated and got himself into ratio, without those --

A That is why I say I don't recall that conversation, but that would follow.

Q Do you know if it was agreed that he would be able to receive and disburse cash to honor those commitments?

Do you recall that?

A That would be part and parcel of cleaning up an old contract.

Q Would you know if he was -- if it was agreed that he would be permitted to receive and disburse cash to complete payment of his bills and expenses?

A I would assume that that was one of the items.

Q Would you remember offhand who else was present besides yourself?

A Yourself, myself, Mr. Nortman, and I believe there was a fourth party present, but I don't -- Mr. Sloan.

Q And maybe one other person?

A Perhaps one other person.

I don't recall who.

Q Did you have -- did you look to the records of the commission to establish if there is in the record a filing for 1970?

Under the action 17A5.

A I don't believe I ever verified that, sir.

Q Did you look to see if there was a filing for 1971?

A I analyzed that filing myself.

Q What date was that, sir?

A I don't recall the date, sir.

But it is the Raymond Leon submission.

Q It was not the dateof June 30th, is that your statement?

A No.

That was January 29, 1971, I believe, the date of the balance sheet.

MR. TAYLOR: That would be all, your Honor.

REDIRECT EXAMINATION

BY MR. RASHES:

Q Mr. Kanoff, you were questioned before on Exhibit 6D and 6E, the material contained and in reference to the February 26, 1971 trial balance and trading account, specifically the loan payable to, Iny, and the

and the 2,000 Kaiser Steel.

Could you explain how you treated it and why you treated it in the manner you did?

A Well, I treated the long positions as being firm inventory, because that is the way it was reported to me, and I treated the $58,000 due Mr. Iny, as a payable to Mr. Iny, because that is what Mr. Sloan told me it was.

Q Now, are there other possible ways to treat that, Mr. Kanoff?

A At varying points in time, yes.

Q How would you have treated it if you would have known the information that Mr. Taylor brought out?

A I would have let the $58,000 remain as either payable to or as a customer credit balance, and I would not have given him credit for the 60 some-odd thousand dollars worth of securities.

Q What wouldthat have done to your capital computation, Mr. Kanoff?

A That would have put it in a worse light.

Q A worse light?

A A worse light.

Q Thank you.

Now, Mr. Kanoff, when in discussing the February 6th figures, is it a fair assumption to say when you

analyzed these figures or any figures, you are basing your analysis upon what has been submitted to you from broker-dealer?

A From the broker --

MR. TAYLOR: Objection, your Honor.

The witness has testified that that was only one of the materials used.

He independently acted in many regards, in the valuation of securities and apparently other sources.

MR. RASHES: I will rephrase the question, your Honor.

JUDGE TRACY: Rephrase it.

BY MR. RASHES:

Q Mr. Kanoff, is it a fair assumption or a fair statement to say, fair statement to say to you, that in analyzing financial statements you base your analysis one, upon the records or documents, trial balances, schedules, et cetera, submitted to you by the broker-dealer as well as valuations in securities you make from the pink sheets and other public news documents?

A Yes.

MR. TAYLOR: Objection, your Honor, to the form of the question.

This witness is the witness of Mr. Rashes, and on direct examination he is to elicit testimony and

not present answers for the witness to resolve yes or no.

He should ask the witness and not direct him to answer.

JUDGE TRACY: Well, I will overrule the objection.

I will allow it.

MR. RASIES: Can you read the question back, Mr. Reporter?

(Whereupon, the pending question was read by the reporter.)

A And other information.

Q What other information?

A Statements made by the broker.

Q To you?

A To me.

Additional bills that may be on hand and not yet recorded, things like that.

Q Thank you.

Mr. Kanoff, going to your visit to Sloan & Co., of April 8, 1971, you testified before, I believe, you were shown memo tickets.

A Yes, sir.

Q Could you have taken a trial balance for the end of March, of the firm of Sloan & Co. from those memo

tickets?

A No, sir.

Q Why not?

A Because they would be the -- the entry itself, I would have no knowledge of what the prior balances were in the ticket account.

MR. RASHES: Excuse me, your Honor, for a moment.

Q Mr. Kanoff, do you have the documents dealing with the trial balance and capital computation of July 31st in front of you?

A Yes, I believe I do.

Q I direct your attention to Division's Exhibit 8D, the Sloan trading account, as well as Division's Exhibit 8F, your analysis.

A T hat is the Jyly 31st.

Q Yes, sir.

Mr. Kanoff, what did Mr. Sloan have on Division's Exhibit 8D as valuation of his long securities?

A $29,667.19.

Q Mr. Kanoff, what valuation did you give his long securities?

A 21,642.59.

Q Mr. Kanoff, taking Mr. Sloan's valuation for the moment, what change would that have had on your total

net capital deficiency?

A I would have to make a short computation.

Q Would you, please?

JUDGE TRACY: What period is this?

MR. RASHES: July 31st, your Honor.

A It would have reduced the deficiency by $2,400, in round numbers.

Q What would that have brought the deficiency to, Mr. Kanoff?

A $68,000, in round numbers.

Q Now, Mr. Kanoff, in the same area, let us assume for the moment that you had given, which you did, but you had given Mr. Sloan or Sloan & Co., credit for 200 shares of Volpex at $14 a share.

What would that have done to the capital deficiency then?

A On the same date?

Q Same date.

A 200 shares at 14?

Q Yes, sir.

A Reduced it by another $2,200.

Q Thank you, Mr. Kanoff.

Could you please explain or clarify for me the procedure in valuing securities, when you analyze them for capital analysis purposes?

A I don't understand your question.

Q I will rephrase it.

How do you value a long security?

A Well, we determine the current market price and that is the valuation.

Q What price would you take for an over-the-counter security in the trading account for capital computation?

A Long position, I would take the highest figure in the sheets.

Q In the short position?

JUDGE TRACY: That has already been testified to ad infinitum.

A Lowest.

Q What does this do for the broker? How does it present his figures?

A This puts his positions in the best light.

Q Mr. Kanoff, how many inspections, since you have been working for the Commission, have you engaged upon?

A Inspections or computations?

Q Broker-dealer inspections, sir.

A Say approximately 150.

Q Approximately how many of those firms were doing business at thetime of your inspection?

A I'd say about 99 per cent of them.

Q Were you ever present when any of these firms received telephone calls?

A Yes, sir.

Q Were you present when the conversation took place over the telephone?

A Yes, sir.

Q Have you -- Mr. Kanoff, if you heard someone pick up a telephone at a brokerage firm and give a quote into the phone, would you assume he is giving a quotation on a security?

A Absolutely.

MR. TAYLOR: Objection.

JUDGE TRACY: I will allow the question.

What is the basis of the objection?

MR. TAYLOR: The line of questioning is totally irrelevant to this complaint and Mr. Rashes has asked Mr. Kanoff to assume --

JUDGE TRACY: I think it is relevant to whether or not Mr. Kanoff walks into a brokerage firm and is able to state in his opinion whether or not the brokerage is doing business.

He's walked into 150 firms in which they picked up the phone and they are not dead phones, they are talking to somebody at the other end.

Perhaps in your case there is one exception where he is talking into a dead phone.

MR. TAYLOR: I will object to the form of his question, sir.

He asked the witness to assume.

JUDGE TRACY: Assume what?

MR. TAYLOR: I think the reporter can read the question, but if he will read it again, you will ask that -- you will see that Mr. Rashes asked him to assume something and then give an answer.

JUDGE TRACY: Well, what is the assumption? Maybe I missed that.

MR. TAYLOR: May we have the question read?

(Whereupon, the pending question was read by the reporter.)

MR. TAYLOR: I object that the point of the witness on direct examination is to give statements of facts.

That precisely is the point of my objection, when Mr. Rashes then incorporates into his question that he should assume, and then make a conclusion.

JUDGE TRACY: I will let him rephrase the question.

BY MR. RASHES:

Q Mr. Kanoff, you have been in brokerage firms

when business -- strike that.

Mr. Kanoff, you visited the brokerage firms on inspections, correct?

A Yes, sir.

Q I think you just testified that 99 per cent of the brokerage firms you have visited have been doing business while you visited them?

A Yes.

Q Have you ever heard conversations, have you overheard conversations on the telephone?

A Yes.

Q Have you ever heard the call, the person on the telephone in the brokerage firm you are inspecting converse with someone on the telephone?

A Yes, sir.

Q Have you ever heard them give quotations over the telephone?

A Yes, sir.

MR. TAYLOR: Your Honlr, I again rise to object t. this entire line of questioning, in view of the fact that Mr. Kanoff cannot have heard the conversations unless it is an open telephone, and that groundwork has not been laid.

He is again asking the witness to assume.

JUDGE TRACY: Let's -- this line of questioning

has been gone over and over, but the point is --

MR. RASHES: We will move along.

JUDGE TRACY: If you tried to bring out, at least by inference, that Mr. -- the only thing that I understand, that Mr. Kanoff is being asked to testify, is he's been in a hundred brokerage firms, he's encountered the same type -- this is the way business is conducted.

Ergo, when he walks in to Sloan, he's doing the same thing, he's assuming Sloan is conducting business.

MR. TAYLOR: I object to that assumption from this witness.

JUDGE TRACY: I will allow it as an experienced broker-dealer who'se gone into 150 different firms, this is the type of activity that he goes into, when they are conducting business.

MR. TAYLOR: Not to belabor the point, but I will make this one final reference.

The form of the question is so improper, there is not a proper foundation made as to where Mr. Kanoff heard these conversations, and I think it's a practice that the Commission people do not go into the trading room, they conduct their business in the broker's business office.

JUDGE TRACY: He didn't have-- he didn't have a trading room.

MR. TAYLOR: He is not asking about Sloan.

MR. RASHES: I believe that the respondent's attorney opened this line of questioning on his cross, and I am just trying to establish through Mr. Kanoff's experience, whether -- what his experience is in this area.

JUDGE TRACY: Well, I will allow the question.

I think we will discontinue this line of questioning.

BY MR. RASHES:

Q Mr. Kanoff, in your experience when you hear a quote come over the telephone, someone gives a quote on the telephone, are they doing business?

A Let me say in my experience, having worked a trading desk myself, that is doing business.

Q Thank you, Mr. Kanoff.

A If I might make a point of information --

JUDGE TRACY: That's enough.

Q Mr. Kanoff, do you have Division's Exhibit -- Division's Exhibit 9 in front of you, the 8-31 trial balance and your analysis?

A Yes, sir, I have.

Q What is the deficiency in your analysis, Mr. Kanoff?

A Approximately $16,000.

Q I want to show you Division's Exhibit 16.

What is the adjusted deficiency?

A The adjusted deficiency is 15,789.

Q Mr. Kanoff, turning to the schedule of trading positions you were supplied by the respondent, for argument's sake, if we give value, a value of $2,800 to Volpex, and approximately $288 value to American Racing, and approximately $1,400 to -- well, if we use Mr. Sloan's valuation, security valuations --

A May I have those again, sir?

Q Look at Mr. Sloan's -- strike that.

Mr. Kanoff, would you please compare Mr. Sloan's valuation of long securities on his trial balance, with your valuation on the analysis?

A Yes.

MR. TAYLOR: May I just ask for clarification, please?

Is Mr. Rashes now conceding that these were errors and he is now putting them in?

If not then the hypothetical issue is moot and should not take our time.

JUDGE TRACY: All he wants to show is that if you allow your corrections, there is still a deficiency.

MR. TAYLOR: He is acknowledging they are corrections.

JUDGE TRACY: You are trying to put words in everybody's mouth.

It doesn't make any difference whether he admits it is an error or mistake.

He is saying assuming your figures are correct. does it make any difference in the deficiency.

This is just a semantic argument. I am not going to get into that.

Q Mr. Kanoff, directly, I believe the Sloan -- what does the Sloan trial balance for 8-31 value long securities as?

A 29,667 and some pennies.

Q This is for August 31st?

A I'm sorry, I am looking at the wrong one. 25,846 and pennies.

Q Mr. Kanoff, in your computation, what do you value Sloan's long securitiesat?

A 2,701.

Q Mr. Kanoff, for the moment, without conceding anything, if we took Mr. Sloan's valuations, what change would that have on his net capital computation?

A It would reduce the devidiency by $2,200.

Q What would it be at that point?

A Approximately 14 thousand 3.

Q Thank you, Mr. Kanoff.

(Recess taken.)

BY MR. RASHES:

Q Mr. Kanoff, going to the Cinemation short position, July, 665, August, it's 100 short and in September it's 10 long.

Could you explain how you treated that item in preparing 16A?

A Well, starting with the short position of 665, assuming that he was going to be permitted to liquidate, the August position of short only 100, reflects cleaning up the 565 shares.

Q Mr. Kanoff, in connection with any of these new positions on this whole Exhibit 16A, did you ever get any buy-in notices from Mr. Sloan?

A Did I ever receive any?

Q Did you ever receive any buy-in notices from Mr. Sloan?

A No, sir.

MR. RASHES: Thank you, Mr. Kanoff.

RECROSS-EXAMINATION

BY MR. TAYLOR:

Q Now, Mr. Kanoff, in reference to February 26th, again, please, and based upon the question directed to you from Mr. Rashes before, did I understand you correctly to say that if the $64,000 Kaiser position was to be joined with the $58,175 loan payable to Mr. Iny, that that

result would make the deficiency worse on February 26th.

Was that your statement, sir?

A No, that was not my statement.

Q It was not.

Would you tell me what you said then, please, sir?

A What I said is assuming that the $58,000 was a credit balance, monies owed to Mr. Iny, that would have no change on the liability side.

If the stock in fact belonged to Mr. Iny, in addition to him having $58,000 in his account, it would make Mr. Sloan's position at that point worse.

Q That was the same answer you gave prior to Mr. Rashes' question.

A I think I explained it a little more fully at this point than I did when Mr.Rashes asked me.

Q I think you did, sir.

May I ask you, Mr. Kanoff, did Mr. Sloan ever tell you that the Kaiser Steel belonged to Mr. Iny, and that the $58,000 had been the money used to purchase those securities?

Did he ever tell you that?

A I don't believe he ever did, sir, no.

Q That is the best of your recollection?

A The best of my recollection is conversations that I had with Mr. Iny.

Q Did he specifically reply to any question of yours in that direction?

A Mr. Iny, as I recall, told me he had a total of approximately just over $100,000 worth of equity up with Mr. Sloan.

Which would, to my mind, be cash plus stock.

Q As at what time?

Did he mention a date on that, sir?

A He did, but I don't recall the date at the moment.

Q Do you know if it was the Febeuary date involced here, February --

A I don't recall, sir.

Q Did you ask him specifically in regard to the February 26th matter, whether the Kaiser Steel was purchased out of the $58,175?

A The best of my knowledge, my recollection along those lines, was that Mr. Iny said he had put up cash first, which would indicate a credit balance.

He wanted to see how Mr. Sloan would execute these orders for him.

Q So would that lead you to conclude that the

money was first put up to buy the shares of Kaiser Steel, sir?

A It would lead me to believe that some money was first put up, prior to some steel being bought.

I don't know the numbers of shares and how much would be left over one way or another.

Q Would you know the amount at which Kaiser was actually purchased, as compared to the market value of 64,000?

A No, I don't.

Q Did you ever look into it, sir?

A I believe I saw Mr. -- excuse me -- Mr. Iny's records that the stock was bought at 32 and a fraction.

There were several lots bought.

Q Would that approximately be $58,175?

A Some of it would, I suppose.

Q Pretty close would you say?

A I couldn't say.

Q May I ask you --

A There were other securities involved in it, also.

Q May I ask you if the proposition that I had previously asked, that was referred to by Mr. Rashes was correct, that if this Kaiser Steel in fact belonged

to Mr. Iny, and that the $58,000 was used to pay for it, would that not improve the computation as at February 26th?

A If the debit of the purchase and the 58,000 were merged --

Q Joined.

A That is what you are referring to?

Q Yes, sir.

A That would be an entirely different situation.

Q Would you offhand know how much that would be in the way of improvement?

A I could compute it.

Q Would you take it it would be over $20,000 on the haircut, and the five per cent removal from aggregate necessary on the loan figure, that it would be over $22,000?

A Let me go through it in my own mind.

He would lose the 60 odd thousand dollars worth of assets entirely.

Q And $58,000 of liability?

A And $58,000 ofliability, and the haircut on the stock.

Q How much would that come to?

A Well, may I have a moment?

Q Roughly, check it, yes, sir.

A I am confused here now.

What valuation are we putting on the Kaiser Steel?

Q I will give you a sheet of paper. Securities are 64,000.

A 64,000.

Q The loan is 58,175.

A So you would lose that. He would lose the 64,000.

Q Would that leave a net effect upon capital of $5,825?

Removing the long position and removing the liability?

A I don't follow that. Just a moment.

A Yes, 5,000 plus the haircut.

50 some-odd hundred.

Q And the haircut on 64,000 at 30 per cent, is $19,200?

A 19,2.

Q That would be a plus --

A Yes.

Q Would it, in your computation, sir, the 58,175, under the rule, five per cent of it, also would be gained in the computation?

A Yes.

Q How much would that be roughly?

A $2,700.

Q And the sum total of that would equal how much of an improvement in the capital?

A 19,2,27 -- about 26, 27,000.

Q 27,000, sir. All right. Thank you.

This is my final question:

Did I understand you before in response to Mr. Rashes, to say that the SIPC provision provides no claim recovery for broker to broker transactions?

A No.

He asked me if in my experience if, who -- how fast somebody would be paid.

Q Yes.

A And I believe I answered him it would be about several months at the least.

Q His next question followed as to whether they were broker to broker.

A Who would be covered by the SIPC act.

My answer, I believe, was public customers.

Q Is that only?

A In my experience, I would limit to to only.

Q Are you staging therefore, that a broker to broker claim is not recoverable under the SIPC protection?

A-293

A That is my understanding, yes, sir.

MR. TAYLOR: I will have to let that stand, then.

REDIRECT EXAMINATION

BY MR. RASHES:

Q Mr. Kanoff, just one question briefly or two questions.

Going back to the now famous February 26th trial balance.

A Which one is that?

Q And dealing with Mr. Iny's loan payable and the Kaiser Steel position.

A Yes.

Q Was that the way Mr. Sloan's books reflected it, the way you treated it on the trial balance at that time?

A The way I treated it on the trial balance, was a combination of what Mr. Sloan's books reflected and what he told me the $58,000 was.

Q When did he tell you it was -- what the $58,000 was?

A While I was in his office.

Q That would be around March 19th?

A That was the visit of the 19th, yes.

MR. RASHES: No further questions.

MR. TAYLOR: Nothing further.

JUDGE TRACY: I have a question.

If anybody wants to object to it, to my question, they may do so, and it will be withdrawn.

In all of your testimony here, Mr. Kanoff, you -- I counted six visits that I made dates of, which you testified specifically about.

You may have made others, but in any event, these were visits in which you testified that you observed Mr. Sloan talking on the telephone and making quotes and so forth.

Did you ever ask Mr. Sloan what he was doing, if he was conducting business?

THE WITNESS: No.

It was obvious to me that he was.

JUDGE TRACY: No further questions.

MR. TAYLOR: I have no other questions, your Honor.

JUDGE TRACY: The witness is excused.

(Witness excused.)

JUDGE TRACY: We will reconvene at 2:00 and adjourn now for lunch.

(Luncheon recess taken at 12:55 p.m.)

****

A This amount of money --

ME. TAYLOR: I raise the question of the relevancy of these questions. These are matters far outside of the period of the complaint. Are these matters relevant, sir?

JUDGE TRACY: For background.

MR. RASHES: These are background questions.

JUDGE TRACY: Probably in the file, any way.

MR. RASHES: In addition, your Honor, we had some testimony about $10,000 that was deposited, yesterday, in a loan, in the capital, and I would like to clear that matter up.

MR. TAYLOR: That is in the period of the complaint. Is this a matter in the complaint?

That's my original question on relevancy.

MR. RASHES: Just background information, your Honor.

JUDGE TRACY: I will allow a certain amount of background information.

Q Could you please answer the question, Mr. Sloan?

A Well, Mr. Theodos and I were both general partners of the firm. The amount consisted of the combined assets of both myself and Mr. Theodos.

Q Where were these combined assets maintained?

A Maintained in bank accounts which were

,aintained individually by myself and Mr. Theodos.

Q Were they ever marked to Samuel H. Sloan & Co.? These bank accounts?

A No, they were not.

Q Did Mr. Theodos subsequently leave the firm of Samuel H. Sloan?

A Yes, he did.

Q When did he leave?

A I would say on or about the first week of January, 1971.

Q After Mr. Theodos left, how many employees did the firm employ?

A After Mr. Theodos left, the firm had no employees, unless you count myself as an employee.

Q Thank you, Mr. Sloan.

A This is the immediate period after Mr. Theodos left.

Q In that immediate period, who handled the trading of Samuel Sloan & Co.?

A I did.

Q Who handled the bookkeeping?

A I did.

Q Who made the decisions of the firm?

A I did.

Q Mr. Sloan, do you have any training in

accounting practices or procedures?

A No, I do not.

Q Mr. Sloan, when did the firm start doing business?

A The firm started doing business on June 26, 1970.

Q Mr. Sloan, was the firm doing business in January of 1971?

A Yes, it was.

Q Was the firm doing business in February of 1971?

A Yes, it was.

Q Was the firm doing business in March of 1971?

A Yes, it was.

Q Did there come a time when the firm stopped doing business?

A Yes, there was a time.

Q When was that?

A Well, on July 28, I believe was the date. I'm not sure of that date, maybe the 29th or the 30th, sometime in approximately the end of July, I went to the Commission's office and on advice of my attorney, Mr. Roy Weiss, and on the advice of my counsel -- my accountant, who was Mr. Taylor --

Q I did not ask you these questions. I just asked you whether the firm stopped doing business.

Can you please answer the questions as asked?

MR. TAYLOR: May the witness be permitted to complete an answer.

JUDGE TRACY: I will let him.

A Okay.

I made an agreement between, which involved my attorney and my accountant and Mr. Canoff was present, and Mr. Northman was present, whereby -- Mr. Northman of the Commission urged that I discontinue doing business until my capital problems were resolved.

I agreed to discontinue doing business at that time, with the understanding that I be allowed to receive and deliver securities and I be allowed to make payments for the securities received and to receive payments for the securities delivered, and then I transact -- and that I transacted these receipts and deliver to my bank account and also I would be permitted to buy any securities that I was long, and that I would be permitted to sell any securities that I was short.

And that I be able to make any other transactions which would be necessary in the point of view of liquidating the general business of Samuel H. Sloan & Co., and improving my capital ratio.

Q Mr. Sloan, did you apply for listing in the pink sheets, with the National Quotation Bureau in

December of 1971?

A Yes, I did.

Q Were you approved for listing?

A Yes, I was.

Q Did you, in fact, submit quotations to the pink sheets?

A Yes, I did.

Q How many, Mr. Sloan?

A I would say I submitted perhaps during that particular period -- are we talking about December of 1971?

Q Well, we are talking December and January, Mr. Sloan, December of 1971, and January of 1972.

A I couldn't recall how many listings I actually submitted. I know there was a period I believe I put an application in to the Quotation Bureau to be allowed to make listings in the pink sheets on December 2nd, 1971, and that it took a period of time before the Quotation Bureau processed my application.

I believe, and I'm really not sure of the exact date here, but I believe, commencing with the first week of January, 1971, I put a few quotations cards in the pink sheets. I am not sure that I put any quotations there, but just the cards.

Q Mr. Sloan, did you testify before the Commission

on January 2nd, 1972?

A I testified -- there was a date that I testified before the Commission. I don't know if that was the date. That may have been the date.

Q Mr.Sloan, were you asked the following questions and did you give the following answers, on Page 17:

"Question: Have you listed any securities with the National Quotation Bureau and in the pink sheets since December 2, 1971?

"Answer: Yes.

"Question: Approximately how many securities did you list in the pink sheets?

"Answer: How many different securities?

"Question: Different securities?

"Answer: I may have listed as many as thirty."

Do you remember being asked those questions and givingthose answers?

A I don't particularly recall -- I recall that particular line of questioning. I don't recall the exact numbers.

Q Well, Mr. Sloan, is that your testimony, today, that you listed approximately thirty in the pink sheets?

A You have to realize on January 21, I knew exactly -- I assume my testimony was correct.

Q You stand by your testimony, Mr. Sloan?

MR. TAYLOR: May I just show him the=copy, so maybe it will help him to understand what h has had read to him.

JUDGE TRACY: Show it to him.

BY MR. RASHES:

Q Mr. Sloan, do you now remember making that statement?

A I believe that I did make that statement, but I don't remember the exact number.

Q Okay.

A I would like to make one distinction here, if I may?

Just because I put a card into the National Quotation Bureau, does not mean that I am a buyer or seller of th4se securities.

Now, in particular --

MR. RASHES: Your Honor, could you please direct the witness not to -- not to volunteer answers. Please ask him to answer what he's asked andnot go beyond that over on these random conversations.

MR. TAYLOR: The wintess requested the consent of the examiner to complete his answer. I think he should be permitted to finish.

JUDGE TRACY: Where?

MR. TAYLOR: In the response to this question.

JUDGE TRACY: Is that part of the response to that question?

MR. TAYLOR: I believe it was.

Then, he explained what he meant by the implication of those words.

JUDGE TRACY: I will allow the explanation.

A Now, the question regards as to whether I put bid and asked quotations in the pink sheets, on these 30 issues.

While I do not recall the exact numbers that were involved, I can assure you that I did not put bid and asked quotations in the pink sheets on thirty different securities.

Q Did you put them on twenty different securities, Mr. Sloan?

A I have no idea.

I know that most of the securities, if not all the securities, did not contain bid and asked quotations.

MR. RASHES: Mr. Reporter, would you please mark this as Division's Exhibit 17, for identification.

(Whereupon, the document above-referred to was marked Division's Exhibit No. 17, for identification, as of this date.)

BY MR. RASHES:

Q Mr. Sloan, I show you Division's Exhibit 17, and I ask you what it is?

A Well, this would appear to be a photostat, presumably provided by the National Quotation Bureau, of various cards which appears to be cards which Samuel H. Sloan & Co. would submit to the National Quotation Bureau, if they wanted securities listed in the National Quotation Bureau.

Q Mr. Sloan, you say what they appear to be.

Are they or are they not quotations that you put in?

A This is just a photostatic copy. I am not prepared to say that --

MR. RASHES: I look to Mr. Taylor. I believe we stipulated to the authenticity of these copies, Mr. Taylor?

MR. TAYLOR: I stand mute.

Am I being questioned?

BY MR. RASHES:

Q Mr. Sloan, referring to these cards, if you will, the photocopies of the cards --

A Right.

Q Vendotromics Corporation, 1/3, did you submit a quotation to the National Quotation Bureau on

that date for that stock, sir?

A No. In the previous testimony, which I made, which apparently Mr. Taylor has on my desk, I seem to recall this particular line of questioning was followed.

At that time, which is January 21, as you say, all these questions were very fresh in my memory, because we were talking about something that happened quite recently.

Now, we are talking --

Q Answer to the best of your recollection, and I will try to refresh your recollection, if you have any problems.

MR. TAYLOR: Why don't we let him look at the testimony, your Honor?

MR. RASHES: I could read it in.

MR. TAYLOR: Would there be an objection to that, sir?

JUDGE TRACY: Yes, there would be.

MR. RASHES: I will read him the answers.

THE WITNESS: In Vendotronics Corporation, I happen to know that I have a security position at the present time. In Vendotronics Corporation.

But, I haven't bought any or sold any Vendotronics Corporation for over a year. Consequently I would say in July -- January 3rd, I also has a

security position in Vendotronics, and it's quite possible that I went in the pink sheets for the purpose of indicating an interest in this particular stock, because I had a security position in it.

Q Mr. Sloan, did you cause to be listed in the yellow bond sheets, 2056 East 4th Street corporation?

A As a matter of fact, as I recall in this particular issue, that bond was not listed in the pink sheets.

Q In the yellow sheets, I said.

A It was not listed in the yellow sheets, as I recall.

Q Do you remember testifying before the Commission on January 21, 1972?

A I recall the -- I recall testifying before the Commission. I don't know if that's the date.

Q Do you remember the following questions being asked and the following answers:

"Question: Did you cause to be listed in the yellow bond sheets 2056 East 4th Street Corporation?

"Answer: Yes, I believe so. I'm not sure, I imagine."

A Here's the thing, I don't think this 2056 East 4th Street Bond is in existence any longer. I think that went out of business --

Q I am asking you if you caused it to be listed?

A I believe I did not.

Q Are you changing your prior testimony, Mr. Sloan.

A I have since discovered the Bond was never listed inthe pink sheets because it didn't exist.

In the Yellow sheets, do you understand what I am trying to say, Mr. Rashes?

I think that you are --

BY MR. RASHES:

Q Mr. Sloan, did you cause to be listed on the 1/3 Bond Sheets, 12 East 97th Street Corporation?

A Yes, I believe that was the same situation. What it was is that I expressed an interest in these bonds and then in our investigation, I found these bonds were no longer outstanding.

Q You did cause them to be listed in the Yellow Bond Sheets?

A I don't believe I did, no. I would have to check -- I have the Yellow Bonds sheets for that particular day in my office. I keep these pink sheets for a period of two years.

Q Mr. Sloan, do you remember being asked the following questions and giving the following questions.

I am quoting, now.

"Did you cause to be listed on 1/3 on the Bond Sheet, 12 East 97th Street Corporation?

"Answer: Yes."

Do you remember being asked that question and giving that answer?

A Yes, I believe I do.

Q Is your memory clearer today then it was when you testified on January 21, 1972, pertaining to this listing?

A I think my memory was better then, just that these two bonds that you mentioned were not contained. You see the National Quotation Bureau has a very long list of securities for which it will accept listings in the pink sheets or yellow sheets.

If I attempt to put a card in on a security, which is not listed on that list, then,of course, it will take out and won't appear in the pink sheets.

This is all I am trying to say.

Q Mr. Sloan, what is the right answer, today? Did you put this listing in or didn't you put this listing in?

A I believe that I submitted a card for National Quotation Bureau, asking for a listing on 2056 East 4th Street, Six percet in 1924.

Q Mr. Sloan --

A And that this card was kicked out and was

rejected by the National Quotation Bureau on the grounds that these bonds have since passed from existence.

Q Mr. Sloan, did you cause to be listed in the Yellow Bond sheets, on January 5, Viatron, 6¼, 89's?

A Yes, I did. Probably.

Q Were you making a market in Viatron? I guess computer.

A I had some bonds in my long position. I was interested in selling at that time.

Q Were you making a market in the stock?

A No.

Q Were you offering them for sale, Mr. Sloan?

A I was prepared to sell them. I had them in position.

Q Were you offering them for sale, Mr. Sloan?

A What's -- in other words, I was interested in selling the bonds.

Q Did you offer them for sale by putting this quotation into the yellow sheets?

A No.

If you look at the Quotation Bureau card, it says Bond offered, and you will see that there is a big blank space there, which -- which indicates whether the bonds were offered or not.

Q Mr. Sloan, on January 6, 1972, did you cause

to be listed in the pink sheets, Rolls Royce, Ltd.

A I believe I did.

Q Were you making a market in Rolls Royce, Ltd., at that time?

A No, I was not.

Q Did you have securities you wanted to sell, Mr. Sloan?

A Yes, I did.

Q You were on the offering side, Mr. Sloan?

A Yes, I was.

Q Mr. Sloan, on January 6, 1972, did you cause to be entered in the bond sheets a quotation for Multiflex, Inc., or Multitech, Inc.?

A It appears according to this, that I did, yes.

Q Were you making a market in Multitech, Inc.?

A No, I was not.

MR. RASHES: Excuse me, your Honor.

Q Mr. Sloan, did you cause to be listed in the pink sheets, on January 7, 1972, Biomedical Development?

A Says here that I did. I don't recall this at all.

Q Do you recall what side you were on, on this listing?

A No, I do not.

Q Mr. Sloan, on January 7, 1972, did you cause to be purblished in the pink sheets quotations of

Reynolds Securities?

A Yes, I did.

Q Were you making a market in Reynolds Securities?

A No, I was not.

Q Mr. Sloan, on January 7, did you cause to be listed in the Yellow sheets, the bond sheets, Diversified Industries, 5 7/8, 93?

A Yes, I did.

Q Were you making a market in Diversified Industries?

A I believe on or about January 7, I purchased enough bonds at 25 from Wood, Walker & Co., and I sold them at 47 ½, to Van Alstyne, Noel. I think I was making a market. I think you would say that.

Q You were making a market?

A I'm not sure, but I do know I purchased and sold the bonds the same day.

Q Thank you, Mr. Sloan.

Mr. Sloan, did you cause on 1/7, in the yellow bond sheets, Diversified Industries units, I think it is, did you cause a listing for that?

A I don't recall.

According to this statement, I did.

Q Were you making a market in that stock, Mr. Sloan?

A No, I was not.

Q On January 7, 1972, did you go in the yellow sheets for Alcoa Chemical, 5 1/2, 87's?

A Yes, I did.

Q What side were you on that?

A I think that -- I'm notsure of the dates here. I know I previously had a short position in Alcoa Chemical, but I somehow think that this position was liquidicating prior to this.

Q Were you making a market in this stock, Mr. Sloan?

A No, I wasn't.

Q Mr.Sloan, on January 7, did you go into the yellow sheets on Texas International Speedway, or Speed, 8, 84's?

A Yes, I did.

Q What side were you on that?

A I had bonds in inventory. I presumably was interested in selling them.

Q Mr. Sloan -- on the offering side, Mr. Sloan?

A Yes.

Q Were you making a market in that securities, Mr. Sloan?

A No, I was not.

Q Mr. Sloan, on January 7, did you go into the yellow bond sheets on Utility Leasing, 6 1/2, 87's?

A According to this, I did. I don't recall the issue.

Q What side were you in on.?

A I don't recall.

Q On January 10, did you go into the pink sheets on Viatron Computer Corporation?

A Yes, I did.

Q What side were you on?

A Well, I had bonds in my position, in my trading account. I believe this was also the same bond you asked me about.

Q Were you in on the bid or offer side, Mr. Sloan?

A I believe, if you look at my security positions, you will see that I was long the bond and I believe I was interested in selling them.

Q Your testimony is you were interested in selling the bonds, Mr. Sloan?

A I believe so, yes.

Q Were you making a market in the bonds at the time, Mr. Sloan?

A No, I was not.

Q Mr. Sloan, on January 10, did you go into the

pink sheets on J. Bermac Corporation?

A No, I did not.

Q Mr. Sloan, were you asked the following questions and did you give the following answers:

"Question: On 1/10, did you go into the pink sheets on J. Bermac Corporation?

"Answer: Yes.

"Question: What side was that on?

"Answer: The offering side."

Now, Mr. Sloan, were you asked that question and did you give that answer?

A I would like to --

Q I would like you to answer my questions.

A May I say something?

JUDGE TRACY: Explain it.

THE WITNESS: Just so happens there is no security by the name of J. Bermac Corporation.

Also, I notice that apparently this card is -- is written in somebody's -- I don't know whose handwriting, who could possibly have written this card.

I would like to question the authenticity of this particular card.

In any case, there's no such stock as J. Bermac Corporation which was listed on the New York Stock Exchange, until about a year ago. And I may have put this card or --

this, in the pink sheets.

Q So, it's your testimony, Mr. Sloan, that you were mistaken when you testified in January, '72?

A No, I'm not saying that I was mistaken. I was -- don't believe you have my testimony correct, becase I don't believe that I ever testified that there was a stock by the nameof J. Bermac.

Q I will again repeat, were you asked the following questions and did you give the following answers?

"Question: On January 10, did you go into the pink sheets on J. Bermac Corporation?

"Answer: Yes.

"Question: What side was that on?

"Answer: the offering side."

Were you asked that question and did you give that answer?

A There was a security by the name of Bermac Corporation. If you asked me whether I put a listing in the pink sheets on Bermac Corporation, I would say that I did.

Now, based on what you are telling me, I put a listing in the pink sheets on J. Bermac Corporation, which I am not familiar with.

Q You are saying the testimony you gave on

January 21, was in error?

A If I could see the testimony, I would --

Q I have read it to you, Mr. Sloan. I will be more than happy to show you this one question.

A It's possible the reporter made a mistake in taking down the question. I assure you there is no such stock by that name.

Q Here's the record, Mr. Sloan.

A Well, it's possible I misunderstood you when you said J. Bermac Corporation; that you only said Bermac Corporation.

Q On January 3, did you go inot the pink sheets on Graves Corporation?

A It would appear from this, I probably did.

Q What side was that on, Mr. Sloan?

A I don't recall.

Q Would it refresh your recollection if I read the following questions? I ask if you were asked the following questions and gave this answer?

"Question: What side was that?

"Answer: The offering side."

A I believe I was long 350 shares of Graves Corp. at the time.

Q On January 10, 1972, did you go into the pink sheets on D.S. Isis Systems, preferred?

A Right.

Q I can't hear you, sir?

A Yes.

Q Mr. Sloan, did you put it in at a definite bid and definite offering price?

A According to this, I put in an offering of three-quarters and a dollar.

Q Were you making a market at the time in D.S. Isis Systems preferred?

A May I ask you a question? It concerns this making market.

I assume a broker who makes a market is someone who is prepared to buy and sell a security in which he is making market in at all times.

Q What is your understanding of making a market?

A A market maker is a firm or individual who is prepared to buy or sell any security, whichever security he is making a market in, at all times. A hundred shares, of whatever the security he is in.

Q Were you making a market in D.S. Isis Systems, preferred?

A No, I was not.

Q Were you making a market on the offering side?

A Wait a second.

According to my definition, that's an improper --

that's an ungrammatical question.

Q I don't accept your definition, Mr. Sloan.

A What do you say making a market is?

MR. TAYLOR: Could Mr. Rashes define it for him?

MR. RASHES: I will go away from making a market.

JUDGE TRACY: How can you make a market on one side?

MR. RASHES: One sided market.

MR. TAYLOR: I think -- I don't want to lead anything into the witness. Maybe he could define his words?

A Well, I think we all know what the definition of making a market is.

Q Mr. Sloan, on January 10, did you go into the pink sheets on JAMA Productions?

A Yes.

Q What were you in on?

A I don't recall.

Q Would it refresh your recollection if I asked you the following questions and answers?

"Question: What were you in on that?

"Answer: That was a bid."

A I don't recall giving that answer. I don't

belief that I was bidding for any JAMA Production.

Q Mr. Sloan, on January 10, did you go into the pink sheets on Micron Corporation?

A Apparently I did. Probably.

Q What side were you in on that?

A Well, according to this, I had a 12¢ bid and a 15¢ offer.

However, I do not recall making a market in Micron Corporation or buying or selling any Micron Corporation.

Q So, the card was in error, Mr. Sloan?

A Well, let's say that I did not buy in -- I did not make a market in Micron Corporation.

Q Were you asked the following questions and did you give the following answers on January 21.

"On what side were you in on that?

"I may have put a quote on both sides."

A Yes, it seems to be the situation.

Q On January 10, did you go into the pink sheets on Transnet Corporation?

A Yes, I did.

Q What side were you in on that stock?

A Well, Transnet was a slightly unusual situation. I was in both as a buyer and a seller of Transnet.

Q Were you a market maker in that stock, Mr. Sloan?

A Not in the strict sense of market maker.

Q In accordance with your definition, were you a marketmaker?

A Well, the particular situation that caused me to be in on Transnet, was that I had a contract with the firm by the name of Suez American, who is a member of the Mid-west Stock Exchange.

I had attempted to make a delivery of securities to Suez American, and they had refused to accept them, so what I was trying to do, with this particular listing, in the pink sheets, was to either -- was to attempt to sell out Suez American at a favorable price so that I could make a claim against them, which I ultimately did. It was a rather complicated situation, which I believe I explained to Mr. Rashes, at the time that I testified.

I don't know if it was on the record or not.

MR. RASHES: I offer Exhibit 17 for identification into evidence.

MR. TAYLOR: No objection, your Honor.

JUDGE TRACY: Division's Exhibit 17 will be received in evidence.

(Whereupon, the document prviously marked Division's Exhibit No. 17 was received in evidence, as of this date.

Q How long did that relationship last?

A It lasted --

MR. TAYLOR: Before the witness answers, may we approach the bench, Mr. Rashes and I?

JUDGE TRACY: Certainly.

Off the record.

(Discussion off the record.)

JUDGE TRACY: Back on the record.

BY MR. RASHES:

Q Mr. Sloan, I believe I asked you when the relationship of J. S. Love concluded.

Can you give me that answer?

A I don't recall the exact date. It was in October of '71.

MR. RASHES: Mr. Reporter, would you please mark this one-page document as Division's Exhibit 18, for identification.

(Whereupon, the document above-referred to was marked Division's Exhibit No. 18, for identification, as of this date.

Q Mr. Sloan, I show you a copy of Division's Exhibit 18, and ask you what is it?

A This is a photocopy of a piece of paper, that was handed to me by Mr. Terrence A. Duffy.

Q Could you read the top caption of the piece of paper?

A Promissory note.

Q Is this your signature at the bottom, acknowledged by Samuel Sloan?

A Yes, it is.

Q Thank you, sir. Mr. Sloan, how did this note arise?

A I believe -- do you mind if I speak to my attorney a second?

Q I asked you a question, Mr. Sloan. I would like an answer.

A If I explain how it arose, it would take a half an hour or 45 minutes.

MR. TAYLOR: Would the Court permit him to speak to me a moment?

JUDGE TRACY: Yes.

Off the record.

(Discussion off the record.)

JUDGE TRACY: Back on the record.

MR. RASHES: I withdraw that question.

BY MR. RASHES:

Q Mr. Sloan, did you deliver approximately $12,000 worth of stock to J. S. Love, commencing in August of 1971?

A I don't remember the exact dates, but I would

say that I delivered approximately that amount, yes.

Q Did you deliver some of this stock over in the month of August, 1971?

A I, frankly, don't recall the exact date.

Q Were you asked the following questions and did you give the following answers:

"Question: When were these securities given to Love?

"Answer: They were given at various times. I think, commencing at the beginning of August and up until and including some later date. I am not exactly sure of the dates.

Were you asked that question, sir, and did you give that answer?

A I believe I was asked that question and gave that answer.

Q Mr. Sloan, as to the securities that were delivered to the firm of J. S. Love in August, is it true that those securities were still reflected on your books and records during the month of August, 1971?

A The first place, I don't believe that the question that you just read to me, states that I did deliver the securities in August. That -- does that state that?

Q I will read it back.

"Question: When were these securities given to Love?

"Answer: They were given at various times. I didn't bring it with me. But they were given to them at various times, I think, commencing with the beginning of August, and up until and including some later date, I am not exactly sure of the dates."

My next question to you, sir, is . in August, these securities were delivered to the firm of J. S. Love, were they still reflected on the books and records of Sloan & Co?

A I don't believe that that particular question, that my answer specifies that I delivered securities in August. I was --

JUDGE TRACY: Show him the record.

THE WITNESS: I know what it says. I mean --

Q I will show you the question, Mr. Sloan, Line 15 through Line 20.

A Well, just reading it, we are talking about this particular sentence. I think, commencing sometime in the beginning of August -- let me state that I was at J. S. Love during the months of August, September and October.

Q Mr. Sloan, does Division's Exhibit 12 refresh your recollection?

A This appears to be a list --

Q We know what it is, Mr. Sloan. I just want to know if it refreshes your recollection?

A I want to explain something.

J. S. Love was put out of business by the New York Stock Exchange.

MR. RASHES: This is not the answer to the question that's called for.

JUDGE TRACY: Do you recognize that list?

THE WITNESS: Well, I saw this list this morning, for the first time, yes.

BY MR. RASHES:

Q Does that list accurately reflect the securities that were sent over in August?

A I don't know.

Q Does that refresh your recollection as to what was sent over in August.

A I believe this contained a list, and in all liklihood, this list is a list of securities which, at various times were delivered over to the firm of J. S. Love & Co.

However, let me just explain to you that the reason that J. S. Love & Co. is no longer doing business as a brokerage firm,is because it did not have any books and records.

MR. RASHES: Mr. Tracy, if we get into J. S. Love, I have to go into my originalquestions. I don't want to open a whole Pandora's box here. If you would admonish the witness to answer the questions, please --

MR. TAYLOR: That won't be necessary.

May I just tale a minute?

JUDGE TRACY: Certainly.

BY MR. RASHES:

Q Mr. Sloan, in relation to the securities that you delivered to J. S. Love, in August of 1971, were they still reflected on your books and records during the month of August, 1971, after delivery to J. S. Love?

A I think I stated prior -- in prior testimony, that I delivered certain securities, but I do not know the dates that these securities were delivered.

Q Mr. Sloan, is the answer, yes, or no? Do you know if they are reflectedor don't you know if they are reflected on the books and records in August?

A Do I know if what is reflected the securities?

Q I just want a yes or no.

A I do not know whether or not I delivered any securities over to J. S. Love & Co., in the month of August.

Q Mr. Sloan, that was not the question I asked you, sir. The question I asked you was the stocks delivered

to J. S. Love in August, by you, were they reflected on your books and records in August?

A Can I --

MR. RASHES: Strike that last question.

Q 300 shares of Brooklyn Poli Industries, Division's Exhibit 12 states that they were delivered on August 11, to the best of your recollection, did you deliver these shares to J. S. Love on August 11.

A To the best of my recollection, I delivered those shares to J. S. Love & Co. I do not recall the date at which I delivered those shares.

Q Were they in August, sir?

A I don't know.

Q Mr. Sloan, did you deliver any stock over to J. S. Love in August?

A I don't recall.

MR. RASHES: Excuse me, your Honor, for one second.

JUDGE TRACY: Off the record.

(Discussion off the record.)

JUDGE TRACY: On the record.

BY MR. RASHES: Mr. Sloan, I wanted to ask you once again whether you were asked the following questions and you gave the following answers.

I quote:

"Question: When were these securities given to Love?

"Answer: They were given at various times. I didn't bring it with me, but I have a receipt in my office for the securities, but they were given to them at various times, I think, commencing with the beginning of August and up until and including some later date. I am not exactly sure of the dates."

Now, were you asked those questions and did you give that answer, sir?

A Yes, I did.

Q Mr. Sloan, going to the August 31, 1971 trial balance, which speaks as of August 31, was the removal of these securities that were delivered to Love, reflected on that trial balance?

A Are you referring to -- all the securities which I owned, were reflected on the August 30 trial balance.

Q Excuse me one minute, your Honor.

Could we approach the bench, your Honor?

JUDGE TRACY: Yes.

Off the record.

(Discussion off the record.)

JUDGE TRACY: On the record.

Proceed.

Q I will ask the -- I will give you the question and answer, again.

"Mr. Bruder: It appears to me that you have never made any formal trial balance to calculate your capital position; is that correct?

"The Witness: Yes, it is. It seems to be correct."

Was that your answer at that time, si-?

A Yes, it was.

Q Thank you.

Mr. Sloan, did you make a capital computation for the month ending February, 1971?

A Yes, I did.

Q Were you asked the following questions on March 8, 1971, Page 23:

"Question: Mr. Sloan, you testified earlier that you were continuing to do business and had continued since the firm had opened and become registered with the Commission.

"When was the last time, Mr. Sloan, if you can recall, that you made a net capital computation, pursuant to Section 15C3 of the Securities and Exchange Act of 1934?

"Answer: January 29.

Did you ever give that answer? Were you asked that question and did you give that answer?

A Yes, I did.

Q Now, Mr. Sloan, do I take it to mean that you are changing your prior testimony at this time?

A No, you apparently asked a question on March 8, as to whether I prepared a trial balance for the end of the month of February. This seems to have been your question.

Q I will read the question, again, sir. I can't characterize questions.

"Question: (By Mr. Brandt) Mr. Sloan, when you testified earlier that you were continuing to do business, and had continued since your firm has opened and become registered with the Commission, when was the last time, Mr. Sloan, if you can recall, that you made a net capital computation pursuant to Section 15C3 of the Securities and Exchange Act of 1934?

"Answer: January 29.

Now, --

A You are saying this testimony was testimony given March 8, 1971?

Q Yes, sir.

A Now, yes, okay, fine. I did make that statement.

Q Which statement is correct, the statement you made today or that statement, sir?

A Both statements are correct.

Can I make an explanation, now?

Q No.

Thank you, sir.

THE WITNESS: It's a very simple matter.

Q Mr. Sloan, you will have your chance, please.

Mr. Sloan, as of March 8, 1971, when was the last trial balance you prepared?

A January 29, 1971.

Q Mr. Sloan, during the beginning of March, '71, were you placing quotations in the pink sheets?

A Yes, I was.

Q How many a day, approximately, sir?

A I don't recall exactly at that time.

Probably ten or fifteen.

Q Mr. Sloan, does this following question refresh your recollection.

Do you place quotations -- this is from March 8, 1971, Page 26.

"Question: Do you place quotations in the pink sheets?

"Answer: Yes, I do.

"Question, in how many securities, if you recall?

"Answer" It varies from day to day, between twenty and thirty, approximately, closer to thirty."

balances for all the months in question. Your question is whether I had capital computations.

Q The question is did you make capital computations for those months?

MR. TAYLOR: I think the witness was leading to the answer.. I think he should be permitted to finish his answer.

JUDGE TRACY: Okay.

THE WITNESS: I had trial balances for all the months in question. For some of the months, I had actually not frankly done a capital computation, which I have since done, for every single month, in 1971, I have a capital computation, and they are available in my ofice and Mr. Kanoff or anybody can come down and look at my records for that period, and see the capital computations for all the months.

Q Mr. Sloan, pursuant to the preliminary injunction, you were under, did you ever engage an accountant to set up a books and records system for your firm?

A Yes, I did.

Q Why was a new --

Strike that.

Why was a new bookkeeping system set up?

A I had numerous acccuntants in my office on various occasions who made various recommendations to me concerning the ways that I should -- methods of maintaining

books and records.

Could you please ask him to repeat the question, so I can -- could you repeat it, please?

Q The question was, why was a new bookkeeping system set up?

A The previous question. I don't --

MR. TAYLOR: May we have the reporter read it, your Honor.

JUDGE TRACY: Yes.

(Record read.)

Q Why was a new bookkeeping system set up?

A Well, Mr. Barton, of the Securities and Exchange Commission recommended that I obtain a new accountant who would give me advice as to how to set up my books. And the accountant that Mr. Barton referred to me, as it happens, was Mr. Taylor.

Q Do you have any reason to know or do you have in your knowledge, why Mr. Barton made the suggestion that you get someone to set up new books and records.

A I am generally under the impression that Mr. Barton was not satisfied with the work that Mr. Leon, who had been my previous accountant, had been doing.

Q Mr. Sloan, backtracking for a moment, you testified previously that the questions I asked you, or the question I asked you, in January of '72, that testimony

taken taken in sections, relating to net capital capital computations between January '71, you stated that question was correct the way it was put and you said that was your answer, and then you qualified it, sir, and said you had made these capital computations.

When did you make these capital computations for those months in 1971, sir?

A I believe I made all the capital computations that were missing, and there were a couple that were missing, shortly after this particular meeting that we had, you said January 21.

Q They were missing for the month that they were supposedly due for; is that correct?

A Yes, I believe the months were probably March and April of last year.

Q Well, I just want to go back over that question, again, because I just want to refresh your recollection.

Mr. Sloan, were you asked the following question and did you give the following answer?

"Question: Have you prepared a capital computation for January 1, 1971 through December 31, 1971, in accordance with Section 7A5 of the Securities Exchange Act?"

"Answer: No."

Were you asked that question and did you give that answer?

A Yes, I did.

Q Thank you, Mr. Sloan. Were you aware that you had to file an X17A5 for 1970?

A Yes, I was.

Q Mr. Sloan, was this report filed on or by January 15, 1971?

A I engaged an accountant by the name of --

Q Could you please answer my question. I will get into the explanation. I would like to get a yes or no.

Whether it was filed or not filed --

MR. TAYLOR: This is a very difficult top ic. We tried to get into it a number of times and he should be permitted to explain what happened.

MR. RASHES: I will give him time to explain it.

JUDGE TRACY: Just answer the question.

A No.

MR. TAYLOR: The answer is, no.

Q Why wasn't it filed as of January 15, 1971?

A I engageda number of accountants, after starting business, which is actually in June of '70, to prepare a financial statement and when I say engaged, a number of accountants, I spoke to a number of accountants

who told me they would prepare a financial statement for me, and they came down and did examination of my books and records, and for various reasons, a number of these accountants told me they really weren't that familiar with securities work, after I had spent a little money on them, and consequently, I was unable to obtain a qualified individual to act as my accountant.

Now, as it happens, in approximately September of 1970, or August of 1970 -- either August or September, my partner, whose name is Harry Theodos, who was my partner at that time, was approached by an individual by the name of Mr. Martin London, who offered to provide our firm with a certified financial statement in accordance with the requirements, and also, incidentally, who offered to charge us less than any other accountant could possibly charge.

I think he said he would do the whole job for about $200.

My partner and I engaged Mr. London to act as our accountant.

Now, it turned out later that we discovered that Mr. London would come to my office ans sit there and conduct an examination of the books and records, and at various times during the day, he would pick up the telephone and make a telephone call, and

presumably to another one of his accountants, and give them various stock market information, and then he would proceed tohang up the telephone and continue to work from our books and records.

Q Mr. Sloan, were you asked the following questions on January --

A Can I --

MR. TAYLOR: Have you finished?

Q I'm sorry.

JUDGE TRACY: I am not going to allow this to go on much longer. It doesn't explain anything.

MR. TAYLOR: I think he is trying to lead up to, and maybe you could, lead up to the commencing of the 1970 audit, please.

THE WITNESS: Okay.

In any event, Mr. London did perform a certified audit of my books and as a matter of fact, I have in my office at this moment a copy of the certified financial statements which were prepared, which was an X17A5 filing, except that at the last moment, when I was ready to take down the 17A5 filing, I discovered that Mr. London was a partner and vice president and employee of the brokerage firm of Parker, England & Co.. which was since become defunct, and therefore -- basically, what he was doing is he was using my books and

records as a basis to provide information to the other brokerage firm that he was a partner of.

As a result of this discovery, on my part, I was unable to file the form, X17A5, so what I did was I called the office of264-6161.

Q Was that --

A Legal interpretation I called, and I believe I spoke -- happened to speak to, according to my notes, I spoke to somebody in the Division of Legal Interpretation.

JUDGE TRACY: I don't think this is responsive to the question.

MR. RASHES: Could I just --

A It's only going to be another moment.

JUDGE TRACY: Ask him some more questions?

Q Were you asked the following questions and did you give the following answers:

"Question: Are you aware of the fact that you must file your past due 17A5 annual report?

"Answer: Yes.

"Question: You were aware of that?

"Answer: Yes, I am aware of that.

"Question: What do you propose to do?

"Answer: I am trying, I am in touch with one accountant who originally, you know, told me he would

both he and his father -- excuse me -- are in the accounting business, and he told me that he would, you know, provide us with assistance and enable me, provided me with a certified balance sheet, which I was under the impression he works until I believe it was Monday of last week.

"I finally called Monday of this week, yes, Monday, befpre -- the date before you came into this matter. As a matter of fact, he came in, he looked in the book and he said he didn't think they were in the proper form, that he could provide us with certified statememts, based on my books, so right now, I am up in the air about it.

"Question: You know you are in violation of that rule?

"Answer: Yes.

Now, Mr. Sloan, were those questions asked of you and were those the answers you gave, sir?

A Yes.

MR. RASHES: Would you please mark this Division's Exhibit 19, for identification.

(Whereupon, the document above-referred to was marked Division's Exhibit No. 19, for identification, as of this date.)

at it backwards. What's the point of --

MR. TAYLOR: The affidavit, your Honor, is used as a supporting document for an order served upon Shearson, Hammill, to show cause why a certain matter pending in the Supreme Court should not be withdrawn from that jurisdiction, and put into arbitration, in the hope that there would be a more ready determination.

Right now, the present trial period in the Supreme Court might be as much as three to four years.

We were told on arbitration, it might be only one year. That's the only supporting document, and does lend nothing to the present matter before this Court.

JUDGE TRACY: Let's go off the record for a minute.

(Discussion off the record.)

JUDGE TRACEY: On the record.

MR. RASHES: We withdraw the previous offer of Exhibit 19, at this time, your Honor.

Your Honor, I ask you to take judicial notice of File No. 2-42841-1.

JUDGE TRACY: Give me that again?

MR. RASHES: 2-42848 -- excuse me, I mean, 2-42848-1, the registration statements and amendments of all John Allmand, Boats, Inc.

There has be absolutely no relevance to the matters pending or the matters brought out and sought to be connected.

MR. RASHES: It goes to public interest, one, he is in an underwriting, and two, if his capital is tied up --

MR. TAYLOR: The form of objection should be short form. Simple statement of objection and a short reason, not a debate. The total matter here is that, total matter is that the time sequence is completely differen t representative, and it's a totally unrelated matter to the complaint before this court.

JUDGE TRACY: I will overrule the objection and allow him to answer the question.

Do you want to repeat the question?

(Record read.)

A I signed an affidavit --

Q Yes, or no, Mr. Sloan, please?

A The question is, did I state that all my liquid assets were tied up?

Q Did you state in affidavit? Could you read the question again, Mr. Reporter, please?

A Do you mind --

JUDGE TRACY: Read the question.

(Question read.)

an affidavit, we acknowledge it was notarized. What's the point?

MR. RASHES: Fine.

I withdraw the question.

Q Mr.Sloan, do you know a party by the name of Joseph Iny?

A Yes.

Q Did Mr. Iny ever enter into a partnership with you in the securities business?

A Mr. Iny proposed on a number of occasions.

Q Did Mr. Iny ever enter into a partnership agreement with you, Mr. Sloan?

A No.

Q Mr. Sloan, I would like to read the following questions and answers that were given -- and I ask you if you were asked these questions and gave these answers on April 26, 1971. Page 20/

"Question: Is Mr. Iny a broker-dealer, to the best of your knowledge?

"Answer: No, he is not. He is not a registered brokerage firm.

"Question: Is he not, in fact, Mr. Sloan, a member of the public?

"Answer: Under the agreement which I have with Mr. Iny, I am not certain that you would consider him a member of the public.

"Question: Why don't you try to describe the agreement for me?

"Answer: Well, the agreement that Mr. Iny has, this agreement first, let me state, this agreement was Mr. Iny's suggestion as he brough t it up. I never considered it before he made the suggestion, you know, this possible arrangement, and a any actions which have been taken have been pursuant to, you know, basically, I am willing to agree with the agreement to the proposal made to me. The proposal that he made to me which I accepted was I -- he would advance me funds and I would use these -- use this for the purposes of trading in stocks. And that this would be not -- would not be a customer relationship, but it would be one which would be predicated on the fact that some time in the immediate future, we would form a partnership.

"Question: Did you ever sign any documents or reach any tentative agreements about the opening of a partnership with Mr. Iny?

"Answer: Yes.

"Question: Where are those documents?

"Answer: I did not sign any documents, but I reached a tentative agreement. And then, there is

some -- do you want me to read -- Mr. Weiss, excuse me, again, that leaves everything up in the air.

Could you state when you reached a tentative agreement.

THE WITNESS: Yes, yesterday.

"Question: Yesterday? At what time yesterday?

"Answer: Approximately seven o'clock in the afternoon.

"Question: Where did this agreement take place?

"Answer: On the telephone.

"Question: Where were you, at home or in your office?

"Answer: In my office.

"Question: Where was Mr. Iny, to the best of your knowledge?

"Answer: He was at his home.

"Question: What were the fundamentals of this agreement, at what point in time was Mr. Iny to become a partner of yours?

"Answer" I am joining the Philadelphia-Baltimore Exchange. Each of us is to contribute 50 percent capital contribution in order to meet the requirements of that exchange. We are to establish a clearance account with a member firm of the exchange to keep all funds properly segregated, all

our funds, and I am supposed to, and any trading we do, in other words, I will maintain my account for whatever purpose that I do, and will maintain his account for whatever purposes he does and any profits which will accrue, to each of us, will accrue to each of us."

MR. TAYLOR" Profits or losses?

Q Were you asked those questions and did you give those answers. Mr. Sloan.

A Yes.

Q Which of your answers is correct? Did you have a partnership with Mr. Iny, or didn't you have a partnership?

A You asked me if I signed a partnership agreement?

Q Did you sign a partnership agreement?

A No.

Q Did you have a tentative agreement with Mr. Iny that you would form a partnership?

A Yes, I did.

Q Mr. Sloan, did Mr. Iny deposit any funds with your firm, Sloan & Company?

A Yes.

Q How much money did he deposit, Mr. Sloan?

A Varying amounts of money. I think I have, in my office, records, customer records, which show the various amounts of cash deposits that he made.

Q How did you treat these funds that Mr. Iny deposited with you, Mr. Sloan?

A Well, Mr. Iny was in effect a customer of Sloan & Co. The reason why I say in effect --

Q Are you in the middle of an answer?

MR. TAYLOR: Could we have the question and his response read?

(Record read.)

A Was, that I did not charge Mr. Iny any commissions, and Mr. Iny had deposited these funds pursuant to a tentative agreement whereby he would become a partner of Samuel Sloan & Co., and that I was purchasing, and selling, primarily purchasing, shares of Kaiser Steel, from -- for Mr. Iny's account.

Q Are you finished.

A Yes.

Q Mr. Sloan, isn't it a fact that your books and records, in February of 1971, treated these funds as capital and reflected the Kaiser Steel Industrial firm trading account?

A Mr. Kanoff came in --

Q Yes, or no, Mr. Sloan.

A Yes.

Q Getting to one more area, I believe one of your trial balances showed a $2400 and some odd dollars, $50 claim to the Securities Investor's protection Corporation;

A No. I have not.

Q Do you expect to receive money in the near future.

A Every time I call Howard Carleton, they say the money will be paid out in the near future.

Q With the Carleton trade, it will be two years, in January, is that correct, sir, with the others lesser amounts?

A Correct.

MR. RASHES: No further questions, your Honor.

JUDGE TRACY: Off the record.

(Discussion off the record.)

JUDGE TRACY: On the record.

In an off-the-record discussion, counsel for the Division stated that Division's Exhibit will be -- Exhibit No. 19 will be withdrawn and will not be offered in evidence.

However, I remind Division to keep it in the -- as part of the record.

MR. RASHES: Yes, sir.

JUDGE TRACY: Do we have any further business this afternoon?

MR. TAYLOR: I don't think so, your Honor.

JUDGE TRACY: We will adjourn, now until 10:00 tomorrow morning.

(Adjourned at 4:45 p.m.)

that if I became interested, there could be some room to cooperating together.

Q Did you ever talk with him about a possible partnership?

A Yes. We -- several times.

Q When did these discussions take place?

A Prior to my doing the first transaction with him. It could have been, if I were to try and pinpoint it, my recollection is not very accurate, but I would say towards the end of 1970.

Q Thank you.

With respect to these discussions, did you ever ask Mr. Sloan about his qualifications in the brokerage business?

A Many, many times we discussed. I mean, I was impressed that he is a good mathematician; he is a very bright person; he is intelligent and quick to see the point.

So, that is what attracted me most to Mr. Sloan, at the time.

You know, as far as character,as far as -- it seems that I thought that since he is intelligent enough, that it follows, I assumed, that he is as straight as intelligent.

Q Did you ever sign a partnership agreement

with Mr. Sloan?

A No.

Q Did you ever sign any letter of understanding or letter of intent to form a partnership with Mr. Sloan?

A No, but it was more or less an oral understanding that if -- that if later on, if I am satisfied with what I see, that there would be a way, still to be discussed and still left open, to become associated with Mr. Sloan.

Q Did you ever contribute any cash or securities to the capital of Sanuel H. Sloan?

A No, but I have him $10,000 check, first check, before I entered into anything, to be used later on to buy something, which turned out to be Kaiser Steel.

After a week or seven ten days, I think, of giving him the first $10,000,. I used it to buy.

Q Now, Mr. Iny, what steps did you take, if you took any, to see if a partnership with Mr. Sloan would work out, would be manageable?

A Well, we didn't go through a very formal process, you know. It was all understood, like it was all understood that there is, as far -- at no point was there any binding duty on the part of either one to enter into anything. The whole situation was fluid.

How and how, there was only an intention on my part to examine the whole thing, without any specific

different securities which he was trading, and I always felt that he was too much of a plunger on the short side, and always my advice, whenever he sought it, for whatever it was worth, was on the side of moderation.

I had some misgivings about selling the stock of Rolls Royce, $10,000, $20,000, I don't know how many thousand, short, and I said, "Look, anything can happen that this thing would turn right back."

You know, it was touch and go with Lockheed and nobody knew the thing, but I know there were various other securities which he had a predeliction for the short side of the market, you know.

Q Mr. Iny, you testified a few moment ago, that you originally gave Mr. Sloan $10,000 -- "10,000 to cover possible future purchases by yourself in securities?

A Yes.

Q Did Mr. Sloan ever purchase any securities for you?

A Yes, he did.

Q What securities?

A He purchased a total, I think, of 4,500 Kaiser Steel, and sold a thousand, or it could have been 5500 and sold a thousand, and he bought 1500 Kaiser Resources for me.

Q When did these purchases commence?

Q Right. Now, Mr. Iny, when you were making these purchases and when you gave him the original check for $10,000, and the subsequent checks, did you consider yourself a customer of Sloan & Co.?

A Well, it never really entered my mind, because really, the friendship aspect was at all times present, you know. So that, that's what I would say.

Of course, I should have considered myself as a customer, but more or less, I had also in the back of my mind the intent of being also a partner.

Q But tjat eventually never came to pass?

A Never came to fruition, actually.

Q Do you recall the total amount of checks that you paid to Sloan & Co. for these securities?

A Yes. The total amount is $156,450, of which the sale of 1,000 sharesof Kaiser Steel, the proceeds were 33,000, and therefore, leaving a net advance of $23,062.

MR. RASHES: We offer Division's Exhibit 20 for identification into evidence.

MR. TAYLOR: No objection.

JUDGE TRACY: It will be received.

(Whereupon document previously marked Division's Exhibit 20 was received in evidence, as of this date.)

BY MR. RASHES:

Q Now, Mr. Iny, you just testified that occasionally, or most occasions, you gave Mr. Sloan a check to cover your purchases two or three days prior to settlement date; is that correct?

A Yes, that is correct.

Q Did Mr. Sloan ever tell you in this connection, that he could not financethese trades for you, and he had to have three days before settlement?

A This, I knew, you know --

MR. TAYLOR: Objection, your Honor,

? Respond to the question, please.

JUDGE TRACY: I will ask him to answer the questions, whether he ever told him, yes or no.

MR. TAYLOR: Can I have the reporter repeat it, your Honor?

(Record read.)

BY MR. RASHES:

A Yes.

Q Why did you give him these checks two or three days before settlement?

A So that he would be able to pay for it, without his credit being impaired with the houses he was doing business with.

Q Thank you.

Did you ever fill out or give any information for a new account card, prior to the -- a new customer account card, prior to these sales?

A No.

Q Did he ever sell any securities through Sloan & Co.?

A Yes.

Q Do you know what they were?

A Yes. 1,000 shares of Kaiser Steel.

Q Did you receive the proceeds of the sale from Sloan & Co.?

A Yes, I did.

Q Do you recall the amount you received?

A About $33,000 and some few odd dollars.

Q Did you ever receive any written confirmations of any of these transactions that were done for you through Sloan & Co.?

A I later received a reminder of the list of transactions which were made because I had not received the securities right away, and then, I came into a large amount of money, which was disproportionate in regard to the capital of Samuel Sloan, and I thought that if he goes into one of the speculations, it might be my money that is lost.

Q I see.

Mr. Iny, to the best of your knowledge, did Mr. Sloan ever fill out a new account card for you?

A To the best of my knowledge, no.

But it could be --

Q Did you ever tell Mr. Sloan, around the time of these various transactions, that you did not want confirmations, individual confirmations, sent to you?

A Well, no, I didn't say that, no.

MR. RASHES: Would you pleasemark this as Division's Exhibit 21.

(Whereupon, the document above-referred to was marked Division's Exhibit 21, for identification as of this date.)

BY MR. RASH:

Q Mr. Iny, I show you what has been marked as Division's Exhibit 21, for identification, and ask you to identify it, please?

A Yes, this is a list, summarizing all the transactions I had with Mr. Sloan.

Q When did you receive this list, Mr. Iny?

A It says April 21. I believe that it must have been around that time.

Q When were the bulk of these trades entered into, Mr. Iny?

A The bulk of these trades, were entered, they started in February, I think, yes, February and March, and April.

Q Mr. Iny, is it your testimony that this was the only reminder or list you ever received from Mr. Sloan?

A No, I also got a long list, I think I believe that I also -- which is a copy of his, kind of a legal form, where he would enter all the trades, you know.

Q But you never got the what is commonly called customer confirmations for these individual trades?

A No, especially not at the time, you see.

I felt that the reason for it is that he wasn't set up for it. Judging from the order in his office.

Q Now, Mr. Iny, to the best --

Could you describe the order in Mr. Sloan's office?

A Well, everything was in apparently a state of confusion.

MR. TAYLOR: Your Honor, I hesitate and I let the witness run on without interrupting, but is Mr. Rashes now asking him for his opinion? If so, I would raise again the question.

JUDGE TRACY: He is asking him to describe the surroundings of the office.

MR. TAYLOR: Then he should so describe the physical surroundings of the office.

Q Would you please describe the physical surroundings of the Sloan office?

A It's an office in an old building, on the 7th floor. Sometimes, the elevator wouldn't work very well; sometimes you had to climb up the stairs, and you would be out of breath by the time you were there.

Q We are not talking, Mr. Iny, I hate to cut you off, just the inside room or rooms of the Sloan firm, not the building facilities.

A It was just one room with a dilapidated sofa, you know, and a desk which is then not of the nicest; and papers all over the place, you know.

Q What type of papers, sir?

A Whatever you could find. Pink sheets, papers, stocks certificates on the desk, even sometimes, food or sandwiches on the desk, you know, and that's it. You know.

Q Okay, Mr. Iny, to the best of your knowledge, do you know who prepared this document, Exhibit 21, for identification?

A I think it must have been Mr. Sloan. I was not there but -

MR. RASHES: Your Honor, we want to offer

Division's Exhibit 21. I would like to get a stipulation that the signature on the letter is that of Mr. Sloan.

MR. TAYLOR: We will agree that it was prepared by him.

MR. RASHES: We offer Division's Ex. 21.

MR. TAYLOR: No objection.

JUDGE TRACY: Division's Exhibit 21 will be received in evidence.

(Whereupon, document previously marked Division's Ex. No. 21 was received in evidence, as of this date.)

BY MR. RASHES: Mr. I

Q Mr. Iny, have you had any recent conversations with Mr. Sloan?

A Yes.

Q When were these recent conversations?

A Rather recently, in which Mr. Sloan said that I better appear with a lawyer, that -- first.of all, he asked me not to appear, to tell them what I needed is to be subpoenaed, and they have to obey me, and I had never looked at this, you see, and so I said, well -- and he said, "Look, there can be some trouble for you if you don't appear with a lawyer, and I advise you to come

with a lawyer."

I said, well, that whatever I have done that was wrong, because I was an RR, at the time when Mr. Sloan bought the securities for mr, and technically I was violating a law which is that I have to do all my trading with my firm, or get permission.

Well, since my firm knows that Mr. Sloan had bought some securities for me, and so I felt that I have to tell the,. I don't want them to find out from anybody else than by me.

And so, that I think that it was just like a mixture of threats and promises, you know, and I said to myself, that if I am not going to be -- I am not going to be caught in a thing just because I want to please him, or buckle under threats. I was the friend of Mr. Sloan, and later, he made certain attempts to get me not to cooperate with the Commission, and I wouldn't have this.

Q Thank you, very much.

Are you finished?

MR. RASHES: No further questions, at this time, your Honor.

MR. TAYLOR: Just one moment, your Honor.

JUDGE TRACY: Yes.

Off the record.

(Discussion off the record.)

JUDGE TRACY: Back on the record.

CROSS EXAMINATION

BY MR. TAYLOR:

Q Mr. Iny, would you tell me, please, when did you have this conversation with Mr. Sloan, that you now speak of?

A It couldn't be more than two months old or three months old.

Q Is it two or three months ago?

A It couldn't be much more than that.

Q Where did the conversation take place, please?

A From my office to his office.

Q Were you physically present with him or did you speak on the telephone?

A On one occasion, I was also physically present with him, and I showedhim a report on Kaiser Steel. It was a mixture of friendship and threats.

Q What specifically was the threat he made?

A He said that if I would appear and I would be without a lawyer, that he would get me into deep water, like he would say that I specifically asked him not to send me confirmations.

Q What is the threat that he made, in that conversation, now?

A Well, all right, you want me to come out with it, I will.

Q I am asking you what it was, Mr. Iny, yes, please?

A He said that there are -- that he would say that because of some tax angles that I didn't want this to be.

Q And that was the threat that he made that if you came and testified here, —

A Yes, that he would say that I, because of income tax, you know, had other motives, you see, that is what he told me.

Q Do you know that Mr. Sloan cannot and could not control your appearance at this hearing?

A I don't care what it is, but he made these threats.

Q I asked you a question, Mr. Iny --

A I don't know what's the purpose of your question?

Q Mr. Iny, all you have to do is answer my questions, please. Will you please?

A Yes. Do I know? No, I don't know.

Q You mean you did not know that Mr. Sloan could not, for example, prohibit the Commission from subpoenaeing you?

A No, He asked me not to.

MR. TAYLOR: Your Honor, will you please direct the witness to pay attention to the questions?

JUDGE TRACY: Just listen to the questions and answer exactly what he wants?

Q Are you stating that you did not know that Mr. Sloan, for example, could not prohibit the Commission from subpoenaeing you here?

A This I know. Of course he could not.

Q Then, what possible effect, regardless of what the conversation was, of what possible effect upon your being present here, would Mr. Sloan's conversations have upon you?

MR. RASHES: I think the witness answered that question.

JUDGE TRACY: I will allow it.

MR. TAYLOR: This is on cross examination. I am entitled to this.

JUDGE TRACY: Go ahead.

MR. TAYLOR: Read the question again, please.

(Question read.)

A Mr. Sloan specifically warned me that if I came here to testify, I would be subject to your cross examination, and therefore would place myself in jeopardy

on that count, which I just mentioned.

Q Was that the effect of his words, that you --

A That is what I felt was threatening.

Q Will you let me finish, please, sir?

MR. RASHES: Your Honor, he is badgering the witness.

MR. TAYLOR: I have to when he interrupts me.

MR. RASHES: Badgering is uncalled for.

JUDGE TRACY: I don't think it's necessary to badger him.

MR. TAYLOR: Neither do I.

I would like to ask him the question.

JUDGE TRACY: Just try and ask him the question.

MR. TAYLOR: The witness is interrupting me.

JUDGE TRACY: Upi jave tp waot fpr jos amswers.

MR. TAYLOR: I thought he had finished.

If he hadn't, I am remiss in that.

BY MR. TAYLOR:

Q Mr. Iny, did the fact that you became aware that any attorney, not just me, would cross examine you, did that pose a threat to you?

A No, but I took it as being intimidating.

Q Thank you.

What possible intimidation did you draw in your own conclusion of the mere fact of cross examination?

A Because nobody likes to get into deep waters for no reason.

Q Had you intended to come and appear and tell the truth, Mr. Iny?

A Yes.

Q Did you in any way attempt or would you attempt not to tell the truth as a witness?

A No.

Q Then, what possible effect could the mere fact that an attorney would examine you, pose a threat to you?

A No effect, --

Q At all?

A And the proof is that I came to testify.

Q And we appreciate your coming here.

Now, Mr. Iny, may I ask you, please, on the moneys that you had turned over to Mr. Sloan, I think the amount, the net amount of $123,000, was that a total over a period of time; is that correct?

A Yes. The net.

Q And he had purchased for you shares of Kaiser Steel and Kaiser Resources?

A Yes.

Q Had you received all of the shares that those moneys would pay for?

A Yes.

Q Have you received all the moneys that may have been due to you, from Mr. Sloan?

A Yes, except about, I talked of $300, which I gave him in the form of commission to cover his expenses,

Q But you have a claim against him for any money or security, today?

A No, I don't.

Q Were you satisfied with the activity as a broker for you?

A Yes, I think so. I must say so.

Q Okay.

Mr. Iny, did you receive from Mr. Sloan securities that you purchased, on the settlement date of the transaction?

A Not on the settlement date.

Q Do you know if you received them onthe date that they became available to him.

A I believe so, because he had to put them in transfer in my name, yousee, and it took some time, which I forbear, and I didn't need the securities at the time. I lead him to understand that.

Q Did you at any time return to Mr. Sloan's office, some of these securities for transfer to your name? After he had delivered them to you?

A Yes.

Q Do you recall that?

A Yes. Because I was worried that there would be too much money in his hands.

Q I just asked you, sir, when you had possession of the securities --

A Yes.

Q Were requests for transfer, into your name, personally?

A Right.

Q So, it is correct to say --

A About four or five days after I claim them, in my name, four or five days, in my hands.

Q Possession?

A In my possession, yes. And the reason is that he could not get them transferred fast enough, you see, because there would be too much money in his hands, you see, so that I would have at least physical possession of these securities, and so that I wouldn't have a hundred thousand dollars in his hands when his capital was perhaps twenty thousand.

Q At that point, you either had possession of your securities, when they were available?

A Yes.

Q Or they were being put in transfer for your

ownership; is that correct?

A Yes, that's substantially correct, to the best of my knowledge.

Q Fine. Thank you.

A Some of these securities I didn't get. until, perhaps over a month from the purchase and payment.

Q Do you know the reason for that?

A That he didn't get delivery from Merrill Lynch.

Once he told me there was a problem with Merrill Lynch, he didn't get the securities, and I took his thing at face value. You see?

Q You see, you would not question his honesty.

A I wouldn't question his honesty. I didn't.

Q Do you question it, now, Mr. Iny?

A No, I didn't, but I question some of his pushy methods, you know.

Q In conducting his business?

A No, we were a friend and he sort of switched around that friendship.

Q Is that a personal matter between you and Mr. Sloan?

A It's a small thing. I am not going to be bitter about it because I think that I would rise above that.

But you, I think it has ended any hopes for, or a

Now,, Mr. Iny, is it your testimony that you were then, if you were not a partner, a customer of Sloan & Co.?

A It amounts to that, but I have never really thought in those formal terms, you see.

Q At any time, did you ever have access to Sloan's books of accounts to protect your interest at any time?

A Well, I never really made an attempt to put my nose into it. I would ask him informally, how much is your net worth, how are you doing or something like that.

Since I really didn't have a right to ask him, you see, to delve into his books.

Q Did you ever ask him that?

A No.

Q Your recollection is, the answer is, no, sir?

A Correct, the answer is no.

Q Mr. Iny, did you say that you had never received confirmations from Mr. Sloan on any of your purchase activities with his firm?

A Yes.

I have received, you know, I have received, but not, let's say, the next day, you know.

Q But, have you received confirmations?

A Yes, I have.

JUDGE TRACY: On a certain date.

Q Would you know if on February 26, that the amount that you had paid was approximately $58,000, solely for the Kaiser Steel?

A Not solely for the Kaiser Steel, because this was,the 27 was for, also for theKaiser Steel, plus the 1500 Kaiser Resources, which is 10,000.

Q If you remove the $10,000 for the Kaiser Resources, would the moneys that you had then paid, and advanced to Mr. Sloan, approximately $58,000, solely for the Kaiser Steel?

A Yes. I see here, yes, it's an average of 29, 2,000.

Q Yes.

A Roughly speaking, yes.

Q And the answer is yes, sir?

A Yes.

MR. TAYLOR: That's all.

MR. RASHES: There is one more question, your Honor.

RECROSS EXAMINATION

BY MR. RASHES:

Q Mr. Iny, did the conversation you had with Mr. Sloan, back two or three months ago, lead you to believe that on cross examination by his attorney, you would

CROSS EXAMINATION

BY MR. TAYLOR:

Q Mr. Sloan, you have previously stated and heard testimony to the effect that the Commisssion had requested from you certain financial information in the form of trial balances, schedules of securities and related documents; is that correct?

A That is correct.

Q Did you hear testimony here that on certain dates, you had not submitted that information?

A Yes, I did.

Q Do you recall those dates?

A I don't recall the exact dates.

Q Do you recall if it was April 30, and May 31?

A You mean these are the dates as of the trial balances?

Q That's correct.

A These are the end of the month?

Q Correct.

A That's correct, yes.

Q Were those the two dates?

A Yes.

Q Did you, in fact, submit that information to the commission?

A I gave Mr. Kanoff a trial balance as of

April the 30th, which is contained over there on the desk, which Mr. Kanoff received, apparently, I assume, from Mr. Kanoff's testimony, because I'm sure that he would have acknowledged that he did receive this particular document.

I come to the conclusion, if I may be permitted, to do so, that he either doesn't understand this trial balance or he takes some exceptions to it.

But, I did, in fact, give Mr. Kanoff a trial balance.

Q Will you describe in detail the documents that you did submit to the commission?

A I gave Mr. Kanoff a trial balance.

Q Was that prepared in your hand?

A This was a computer printout.

Q Therefore, it was a computerized trial balance.

A Yes.

Q Would that be the correct term?

A Yes.

Q Did you give him any other records?

A Can we fix a date?

MR. TAYLOR: We are speaking of April 30.

JUDGE TRACY: When did he give them to him?

MR. TAYLOR: Yes.

Q What was the date that you --

A I Honestly don't recall. I am sure if the Commission will search their records, they will see this document was received and they will find the date.

Q Do you know if you gave it to him during the month of May?

A Yes, I did.

Q Would you know if it was the second or third week of May?

A I don't know the exact date. It's --

Q Approximately, Mr. Sloan.

A It is my practice to prepare a trial balance on the 10th of the month. The reason I prepare a trial balance on the 10th of the month, is because, usually, that's the date, or approximately the date, when I get my bank statement, and so I can reconcile the bank statement to the trial totals, so make sure everything reconciles.

The 10th of the month is usually the date the National Association of Security prescribed the date by which trial balances must be prepared by firms which are the members of the National Association.

JUDGE TRACY: We don't need this long an answer. What year are we talking about?

MR. TAYLOR: 1971.

JUDGE TRACY: He says he gave it to the Commisssion.

MR. TAYLOR: Somewhere within the two-week period following the end of the month.

Q You stated you submitted a trial balance from a computerized run. Were there any other records?

A I also submitteda stock record and a schedule of failures to deliver and fails to receive.

Q Did you submit t schedule of your trading account, long and short?

A I don't believe so. But that would be deduced from the trial balance.

Q And would that be part of the document you refer to as a trial balance?

A The trial balance shows a trading account, the total -- see, in other words, I didn't actually give a marked -- I didn't mark the -- I'm not sure about the market of the securities.

Q But would the position be obtainable from the --

A Yes.

Q -- from the schedules you submitted?

A That is correct.

Q What about the month ending May 31, 1971, did you submit the schedules to the Commission?

A Well, on that, the only time that schedule was requested of me was on June the 9th, and Kanoff came

to my office on that particular date and asked me for the trial balance, and I told him I didn't usually have this ready until the 10th. He left my office. He was only there for a few moments, I believe, as I say, and that was the last I saw of him.

Q Did he request the May 31 of '71 financial statement from you, at a subsequent date?

A I don't believe he is or has ever asked me for that information since that time.

Q Is it your testimony, Mr. Sloan, that you generally, as a matter of practice, prepared the required schedules, somewhere after the 10th or within the two-week period following the end of the month.

A That is correct.

JUDGE TRACY: I want to get clear,here. He said Mr. Kanoff came to the office and asked him for it. Did he ever submit any for May?

MR. TAYLOR: I asked him that question. He responded, no, because he did not get a request for it subsequently to that date, sir.

JUDGE TRACY: All right.

BY MR. TAYLOR:

Q Mr. Sloan, do you have in your records, in your office, trial balances and all of the related schedules that we have been discussing here, for the entire period of the complaint?

A Yes.

Q Was there a time when some of these schedules may not have been completed?

A Oh, yes.

Q Did you subsequently receive advice that these were required and you must maintain them currently?

A Yes.

Q Do you do so?

A Yes, I do.

Q Now, devote your attention to the period of August 10 10, 1971, and August 13 of 1971.

Mr. Kanoff solicited your office at that time?

A Yes, he did.

Q Could you tell us what the substance of your conversation with him at that time was?

A I think that when Mr. Kanoff arrived in my office, I think he came very early on those two days and actually I wasn't at the office yet. So, my clerk who is employed by me, called me up. I think I was still at home in bed. I slept late or something, and it was about -- fairly late time of the morning.

Q You then return to your office and speak with him?

A I came to my office and spoke with him.

Q Did you hear him testify while you were sitting here, that he observed certain confirmations on your desk, in each of these visits?

A Yes, I did.

Q Do you remember the number of confirmations he said he observed?

A I think he said four or five, or three or four or five.

Q Did you hear him state that those confirmations were current?

A Yes, I did.

Q Did you hear him define current meant the one day prior to the date of the visit?

A Yes, I did.

Q I ask you, Mr. Sloan, did you, on my instructions, check your blotter to find out if you had any security transactions on August the 9th of 1971 ?

A Actually, there was one statement that I take exception to that Mr, Kanoff made.

JUDGE TRACY: Will you answer the question.

Q Did you, on my instructions, look to your blotter to see if there were any --

A Yes.

Q -- any purchases or sales on or about August the 9th of '71?

office, on July 28 if '71?

A Yes, I do.

Q Would you tell us the substance of that meeting?

A Well, first the individuals present were myself, my lawyer, Mr. Weiss, my accountant, Mr. Taylor -- was Mr. Rosen -- what's his name? Mr. Nortman, I believe a Mr. Rosenberg, I believe he was there. I'm not sure, and Mr. Kanoff. I'm not sure about Mr. Rosenberg, but everybody else was there.

Q Would you then tell us what happened at that meeting?

A What happened at that meeting, was Mr. Taylor, my accountant, reported that I had, due to the fact that I had a very large trading position, in particular, I was short a very substantial number of Management Assistance bonds, that as a result of taking a capital share cut, even thought I had, still had a substantial net worth, and equity, that actually I was not in, at that moment. I was not in compliance with the capital requirement, because -- simply because of the size of my trading position.

Q Was there any conversation as to the elimination of the management assistance bond position, as the effect upon the deficit on that particular date of June 30?

A I don't recall if we discussed that particular subject. I do think that I may have mentioned the fact that this was my -- that this was the position that had caused this particular problem.

Q Is it your statement that the problem concerning the deficit, with the elimination of Management Assistance bonds, who, in fact, know the size, is that correct?

A Yes, If I did not have a position, although I would have to check the figures precisely, if I did not have a position in management assistance bonds which was a short position, then I would not have a capital deficiency.

Q Could you tell us what was agreed upon, in substance,with the Commission and yourslef, as the broker-dealer, concerning curing of the deficit problem you had?

A Well, I agreed not to transact any new business.

Now, this was meant and I think we had substantial discussions, not only at this meeting, but directly after this meeting on the phone conversations, I think I called up Mr.Nortman or Mr. Weiss and I may have called Mr. Nortman, to ask for clarification on certain of the finer points.

Basically, the agreement was that I would not do any more business in that I would not take any new positions in securities.

Q Did that mean that you could cover your

your short position?

A It meant I could cover my short position. I could sell out my long positions. I could take in and pay for any stock that I received in. I could deliver out any stock that I owed and receive money for it, and that I could take any other steps which would facilitate the reduction of my capital liabilities.

Q Would that in effect mean you could contribute capital to the firm?

A Yes.

Q Was it also agreed that you could pay your regular expenses as part of this agreed that you could pay your regular expenses as part of this agreement?

A Yes, right.

Q Mr. Sloan, I ask you, was it your intent at that time, to comply with that agreement?

A Yes, it was.

Q Did you fully, in your understanding, comply with that agreement?

A Yes, I did.

Q Is it correct to say that during the period involved, that the purchase and sale activity that you did was in keeping with the either the liquidation of short position or the sale of your long position?

A That's correct.

Q In order for you to have done that, Mr. Sloan, can you tell us, in the form of loss or expense, the amount that you incurred to your firm, for complying with that agreement?

MR. RASHES: I object to the relevance of this question, your Honor.

MR. TAYLOR: Your Honor, one of the things at issue in this case is whether or not Mr. Sloan, from the period of July 31,did, in fact, do business or not.

I think that -- I think that the bearing that his testimony should have upon the results to his firm, is certainly of concern and should have been interested to this Court.

MR. RASHES: Your Honor,I don't think any presumption can be drawn by the fact a firm either makes or looses money, whether they are doing business or not.

JUDGE TRACY: I will allow that question.

Objection overruled.

A Well, to explain to you what exactly the problem was --

JUDGE TRACY: I don't want an explanation. I want an answer.

Q I didn't ask you that question. I asked you, in order to comply with this agreement, and the period of time is only the period within the framework of July

of '71, through January of '72, that to comply in that period, what was the cost to Sloan to comply with that agreement?

A I would say in the vicinity of @% TO $30,000.

Q Of losses?

A Yes.

Q Because you could not, in effect, protect or defend your trading positions, but you must only act in accordance with the agreement; is that correct?

A Yes.

Q Now, I also --

MR. TAYLOR: I believe, your Honor, it's Exhibit 7, and the related letters. I don't know if this enclosure letters. I don't know if this enclosure letter, dated July 29, written by me to the Commission, had been marked separately, as an exhibit.

This is the June 30 materials, your Honor. This letter is enclosed with it.

JUDGE TRACY: Off the record.

(Discussion off the record.)

JUDGE TRACY: On the record.

BY MR. TAYLOR:

Q Mr. Sloan, do you recall a letter dated July 29, 1971, that Is addressed on your behalf, to the Commission?

rewrite, by hand, all of the ledgers and the blotters, which are generally required.

In other words, basically, I go back and do three month's work, for the months, I believe here, are April, May and June, for those three months. I did that. I went back and rewrote -- I couldn't do it myself. I had two people working for me doing it, actually, and I checked the work.

I went back and rewrote by hand, every single ledger, and blotter, every day for that period.

Q That was done because you were instructed to do so?

A Yes.

Q Were you told the reason for it?

A The reason was because my accountant did take certain exceptions to the form in which some of the reports of the computer service wasgiven.

Q Were you told that these forms were not acceptable, or that they were extremely difficult to analyze?

A These forms were extremely difficult to analyze.

Q Mr. Sloan, at any time during the course of these submission of trial balances to the commission, had you been asked if you had any personal assets, since you were a sole proprietor, that should be included in your balance sheet?

by hand, which are submitted to the computer, the daily work run which the computer service provides me, which is combined with the handrun, and also to the trial balance, and this is, in effect, the trial balance and supporting schedules.

Q Did Mr. Barton examine those records in the company of any other staff examiner?

A Well, Mr. Brand was there, Mr. Kanoff was there, and my lawyer, Mr. Weiss was there,

Q Were you there?

A I was there, yes.

Mr. Barton did not pretend to do a through examination of these records.

He was only there for maybe 20, 25 minutes, maybe shorter.

Q Did he make any observations as to their character?

A Yes, he was familiar with this type of computer system.

Q What did he say?

A He said that these records did provide an adequate means whereby Mr. Kanoff could conduct a meaningful broker-dealer inspection of our books and records.

MR. RASHES: Could I have that answer read?

BY MR. TAYLOR:

Q Mr. Sloan, I would request that the explanation be as brief as possible.

Now, the first item, what's that first item listed where it's marked new?

A American Raceways.

Q How many shares?

A 380.

Q Do you know what that -- pardon me.

MR. RASHES: We wll concede on that -- excuse me, we will concede on that first item, American Raceways, that it was an error on the chart. It should not be a new position. We went into that yesterday. That relates to the trading schedule, whereas, at the bottom one copy we couldn't Xerox properly.

BY MR. TAYLOR:

Q Go to the next one, please.

A The next one is Cinemation Industries.

Q I hand you a copy of that, Mr. Sloan, and there are notations on it, information you supplied me with yesterday.

MR. RASHES: Your Honor, I don't think it's proper to hand him a marked copy. I think the exhibit that's in evidence is proper to give to the witness. It is suggesting certain testimony.

Q Now, Mr. Sloan, we had -- you heard some testimony concerning your annual report for 1970?

A Yes.

Q Under the rule, X17A5, will you tell us, had you engaged an accountant to prepare a report required under the rule?

A Yes, I did.

Q Will you tell us their name, please?

A His name was Martin London at the firm he worked for was Lader, Scheps & London.

Q If you know, if they are located at 570 7th Avenue, New York.

A I believe that that was the address at one time. I haven't had any contact with them recently.

Q Did they in fact, submit to you a questionnaire, speaking of a date as at September 25, 1970?

A Yes, they did.

Q Did you file such report with the Commission?

A I was about to, and then I was informed by somebody in the Commission staff, that I would be placing myself in jeopardy if I did, because I had just discovered that Mr. London was a partner of another brokerage firm.

Q Would you remember who you spoke to at that time?

A I believe, and I am really -- I had several conversations with the SEC, I was just consulting my notes, I believe it was a Mr. Jaffee, according to my notes.

Q Jaffe, Jaffe, I believe.

MR. TAYLOR: Excuse me, your Honor.

Let the record note there is such a person --

JUDGE TRACY: In the New York office.

MR. RASHES: He was in the New York office at that time.

JUDGE TRACY: All right.

Q Did you try at a subsequent date in 1970, to comply with the reporter requirement.

A What Mr. London had done, is he had kept my statement for all this period of time. In fact, he even kept it beyond the 45 days it was required and wrote to the Commission for an extension, I believe you are entitled to one extension, so, by the time I found out I couldn't file it, it was already approaching the beginning of '71.

Q With that in mind, did you then have any further discussions with the Commission, concerning that filing.

A Well, I told him I would engage another accountant to prepare the filing.

Q Do you know to whom you spoke?

A I spoke to, on that particular situation, I spoke to a Mr. Rashes, I believe was his name.

Q This Mr. Rashes sitting here?

Q Did you then have an accountant by the name of Raymond Leon, conduct an audit of your firm?

A Yes, I did.

Q Did he prepare and submit to you, a form and report under the Rule X17A5 for filing, for 1970?

A Well, I think it was as of the date, January 29, 1971. But this was -- Mr. Jaffe also, I asked Mr. Jaffe whether I should backdate the new report as of a date in 1970, and he told me, no, not to backdate it as of a da in 1970, but to file a current report as of the most current date I possibly could file.

Q Is it correct to state that you then understood that this was your filing for the 1970 requirement?

A That's correct.

Q Whether or not that be correct, that was your understanding.

JUDGE TRACY: What do you mean by this?

MR. TAYLOR: I am going to make it, now, your Honor.

I only have a very bad copy, sir.

Q I ask you, Mr. Sloan, can you tell me what

this document is.

A This is a photocopy dated March 30, 1971, of an amended , X17A5, questionnaire.

MR. TAYLOR: Your Honor, we would submit that we do not have the original. It's only a copy.

JUDGE TRACY: Is the original filed with the Commission?

MR. TAYLOR: It should be in the Commission's file.

MR. RASHES: What date is this?

MR. TAYLOR: This is dated, with the covering letter of March 30, speaking as a date of January 29.

MR. RASHES: Yes, that's in the Commission's file.

MR. TAYLOR: They acknowledge it's in the file.

JUDGE TRACEY: Is that the file I am going to take official notice of.

MR. RASHES: Yes, that's the file you took official notice of.

JUDGE TRACY: All right.

We have already taken official notice of it.

If you want to ask any questions about it, you may.

MR. TAYLOR: I asked my questions, your Honor.

As long as they do acknowledge it's in their --

JUDGE TRACY: No use putting it in again.

TAYLOR: Right.

Q All right, then, Mr. Sloan, directing your attention, know, to the date of June 30 --

A That's correct.

Q Did you cause to have been prepared and then filed a June 30, 1971 report, with the form and requirement of the Rule X17A5?

A Yes, I did.

Q Will you tell us who filed that for you?

A Mr. Robert W. Taylor.

MR. RASHES: Your Honor, I am going to object to this line of questioning. We have been over it and over it and over it, as irrelevant. There's no allegation that Mr. Sloan has not filed the X17A5 report for 1970.

JUDGE TRACY: He can cross examine on it. He is cross examining the respondent's version of the filing of these reports. You put in your version of it. I think he is entitled to.

MR. RASHES: All right.

MR. TAYLOR: If I may pronounce and ask the Court to take notice, there is a rule, 240.17A5 that requires minimum one annual report. There is nothing in the rule that prohibits more than one filing in any

given period.

Q All right, then, just to conclude with the witness, your Honor, Mr. Sloan, did you ever, with any willful intent misinform the Commission or any of its staff, as to your financial matters?

A No.

Q Put your hand down, sir.

A No.

Q Did you willfully and with any intent, violate any, to you, of the known securities laws, rules or regulations?

A No.

Q Did any customer for whom you had transacted business, ever not receive their money's worth or securities from your firm?

A No.

Q Have you ever refused or defailted in a securities transaction, with another broker-dealer?

A No.

Q Have you always paid all of the just debts of your firm, as they come due for payment?

A Yes.

MR. TAYLOR: That would be all, your Honor.

MR. RASHES: Your Honor, could we please have five or six minutes to consult?

A Yes, sir.

Q Now, Mr. Sloan, did your books and records or in specific, your capital account in your books and records reflect your personal assets?

All your personal assets?

A No.

Q Mr. Sloan, in Exhibit 16A, that's the exhibit with the new and possibly new market positions, did you get by in those, Mr. Sloan, before you were bought in?

A Yes, I did.

Q You got these prior to being bought in, Mr. Sloan.

A Certainly. I am required to receive a buy notice one day before the execution of the buy-in.

Q Did you file an X17A5 on or before January 15, 1971

MR. TAYLOR: Your Honor, I again object . These matters have all been gone into before. There is a file the Court has taken even notice of. Does this serve any purpose? It's merely repetition.

MR. RASHES: We had testimony that Mr. Sloan tried to file, and he found out this thing the accountant was not a proper certifying account, was not independent and I feel that this goes to the very heart of the matter, this one question.

MR. TAYLOR: Your Honor, I believe that the questions had been asked and you have a filed -- you

have a file notice, at the request of the Commission, and the information is contained in it.

JUDGE TRACY: I will allow one question. Do you want to repeat the question?

THE WITNESS: No.

Q Mr. Sloan, I show you what has been marked Division's Exhibit 19, for identification. Would you tell me what it is?

A Affidavit. In the matter of Shearson, Hammill.

Q Okay.

MR. TAYLOR: Your Honor, we had gone through a great length this very matter, yesterday, and at that point that item was not in evidence, and it was not to be put in evidence, and I though we had exhausted that at great length.

JUDGE TRACY: The exhibit was withdrawn, from being offered, but it was a marked exhibit, and we are not getting into the merits. We have some questions on the witness' credibility, and we seek to show his credibility through certain questions, pertaining to this exhibit.

MR. TAYLOR: Your Honor, I submit again, that that item was formally withdrawn and I think the record will indicate that.

MR. RASHES: The item wa s offered and the offer into evidence was withdrawn, but it's a marked

his client's testimony, and I am just calling Mr. Kanoff for the very limited purpose of asking him two or three questions referring to what Mr. Sloan said in this court room not more than ten minutes ago. I do not wish to reopen the case through Mr. Kanoff.

MR. TAYLOR: Your Honor, I submit that a rebuttal witness, of course, may be called by the Commission, with the Court's approval.

However, this is a witness in this case, and if he is after the Commission has rested, and they have more than opportunity to examine him before, that at this point, if he is going to be asked to testify against, I should be permitted to examine him again.

MR. RASHES: Your Honor, by Mr. Sloan's testimony, we might have had ample opportunity to examine Mr. Kanoff, but Mr.Sloan's testimony opened up some areas that we would like to explore with Mr. Kanoff, basically inconsistencies between statements Mr. Kanoff made under oath and Mr. Sloan made under oath.

We would like to clarify it in the form of rebuttal.

MR. TAYLOR: If this witness has testified, his testimony is in the record. If it is a matter of asking him the same questions in a different form, again, I would then object to his being called because in substance, he is not a rebuttal witness then.

JUDGE TRACY: Let me ask Mr. Rashes, is Mr. -- is there going to be any new evidence introduced, other than testimony, through Mr. --

MR. RASHES: New exhibits, sir?

JUDGE TRACY: New evidence, other than Mr. Kanoff getting on the stand --

MR. RASHES: If you wish, I will approach the bench and show proof of what we attempted to do here.

JUDGE TRACY: All right.

Off the record.

(Discussion off the record.)

JUDGE TRACY: On the record.

MR. RASHES: Mr. Kanoff, will you please take the stand?

JUDGE TRACY: Mr. Kanoff was previously sworn, and you are still under oath.

Whereupon,

SHELDON KANOFF

having been previously sworn, resumed the stand and testified as follows:

EXAMINATION

BY MR. RASHES:

Q Mr. Kanoff, you heard Mr. Sloan in Mr. Taylor's questions bring forth the fact that there was a certain meeting and in attendance were yourself, Mr. Barton and

possibly Mr. Rosenberg.

Were you present at that meeting?

A Yes, I was present. Mr. Brandt.

Q What transpired at that meeting, Mr. Kanoff?

A The meeting was held to determine whether or not the types of records that Mr. Sloan had, were sufficient to qualify under Rule 17A5.

MR. TAYLOR: Is that all, your Honor?

MR. RASHES: One more.

BY MR. RASHES:

Q To the best of your recollection, what did Mr. Barton say, at that meeting, in reference to this?

A To the best of my recollection, Mr. Barton held that the records that Mr. Sloan had with him at the time, were not sufficient to qualify under the requirements of Rule 17A5, the books and records rule.

Q Did he give any reasons why they were not sufficient at that time, Mr. Kanoff?

A I believe he did, but I don't recall all the reasons he gave.

Q Do you recall any of the reasons?

A I believe that one of the reasons, the one that sticks in my mind is there was no recording of certificate numbers on certain of the records.

Q Do you know what records they were?

A Delivery bills, I believe, or other items.

Q Any other insufficiencies that were noted by Mr. Barton at the time?

A I don't recall them.

MR. RASHES: Thank you.

No further questions.

EXAMINATION

BY MR. TAYLOR:

Q Mr. Kanoff, did I understand you to say that Mr. Barton was present during the course of that entire meeting.

A Mr. Barton was at the meeting. I don't recall if he was there the entire meeting, though.

Q Well, would you try --

A May I go through my mind as I could recall?

Q No, sir. I will just ask you questions.

How long did the meeting take?

A Over all, I don't believe it took more than a half an hour. But I don't really recall.

Q Didn't Mr. Sloan testify Mr. Barton left the meeting?

MR. TAYLOR: No, sir.

JUDGE TRACY: I thought he testified that he wasn't there for the whole meeting.

MR. TAYLOR: That's the point I am trying to

establish with this witness. I will bring out how he was at the meeting.

JUDGE TRACY: All right.

BY MR. TAYLOR:

Q Pardon me, is it correct to state that the time of the meeting in your memory is one half hour?

A Approximately that, yes, sir.

Q What records were produced for examination at this meeting?

A I don't recall all the records that were produced by Mr. Sloan.

Q Was a blotter form produced?

A I don't recall the records that were produced.

Q You don't recall any of them?

A I recall that he had certain of these memo tickets with him. I recall that he had certain machine runs, but I don't know at the time also of those runs.

Q When you say memo, do you mean the input form for a machine --

A Machine input information.

Q Mr. Kanoff, would you accept that Mr. Barton was not present at that meeting?

A If you are referring to it in its entirety, I would not accept that statement, no.

Q Would you accept that Mr. Barton's only participation was less than ten minutes?

A Perhaps so.

Q And that he looked at the records that were handed to him by Mr. Sloan, and that he said, would you accept that he said, that these records would be sufficient to conduct the regular brokerage b usiness, and to produce an audit report?

A We wouldn't accept that statement, no.

Q If I represent to you that Mr. Barton told me that, would you accept it, then?

A No, sir.

MR. RASHES: Your Honor, I believe this is a different representation than Mr. Taylor made earlier in this morning.

JUDGE TRACY: We are betting beyond the scope of the rebuttal testimony here, now. You were trying to inject your testimony as to what happened between you and Mr. Barton on the telephone two years after the meeting, and I don't think that's going to be -- I am not going to admit it.

MR. TAYLOR: Then, I would not go any further.

JUDGE TRACY: All right.

MR. RASHES: We have no further questions.

MR. TAYLOR:: No further questions.

JUDGE TRACY: You are excused.

(Witness excused.)

MR. TAYLOR: We have no other witnesses, your Honor.

JUDGE TRACY: We com to the end of the proceedings, then.

In the post hearing proceedings, what is the wish of the parties as to any initial decision by me?

MR. RASHES: The Division would want an initial decision by you, your Honor.

MR. TAYLOR: I would so request, your Honor.

JUDGE TRACY: All right.

And I would like to just verify the exhibit list with counsel. I have all the exhib its that were- they run through 21 for the Division and they were all admitted into evidence except for 19, which was withdrawn, is that correct?

MR. RASHES: That's correct, your Honor.

JUDGE TRACY: Mr. Taylor has one exhibit, A, which we put in as Exhibit.

MR. RASHES: That's the preliminary injunction, your Honor.

JUDGE TRACY: Order of injunction. We also take official notice of it. In order to complete the record, it's in as an exhibit. The exhibits are in the

possession of the Division, I assume?

MR. RASHES: Yes, sir, your Honor.

JUDGE TRACY: And you will submit them --

MR. RASHES: I believe we agreed at the opening day, that we could substitute copies of the exhibits, is that correct?

JUDGE TRACY: Yes.

MR. TAYLOR: That was so stipulated, your Honor.

JUDGE TRACY: It becomes necessary to fix the time for briefs and I --

MR. TAYLOR: Your Honor, as you do that, please, the reporter advised me it will take approximately two weeks to get two weeks to get the transcript.

JUDGE TRACY: Well, the -- I'd like seriatum briefs, in any event, consecutively rather than concurrently. The Division will file a brief and then, within 30 days, normally, then you have 30 days in which to fuke tiyr brief, if a reply brief is necessary, the Division has 15 days. December 1 is a Friday.

I am going to make it December 1, for Division's brief, and that would bring us to January 1, for respondent's brief. That's a holiday, I asssume, so why don't we make it January 2.

MR. TAYLOR: All right, sir.

JUDGE TRACY: And then the reply brief would be due January 17, if any.

Now, let's go off the record.

(Discussion off the record.)

JUDGE TRACY: On the record.

The hearing is adjourned.

Thank you, gentlemen.

(Hearing closed: 1:02 p.m.)

693

A-400

3-3680-1

R/A

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of SAMUEL H. SLOAN d/b/a SAMUEL H. SLOAN & CO. (8-15750)	ADMINISTRATIVE PROCEEDINGS FILE NO. 3-3680 ANSWER

MAY 18 1972

SIRS:

PLEASE TAKE NOTICE that respondent, SAMUEL H. SLOAN d/b/a SAMUEL H. SLOAN & CO., by his attorney, Robert W. Taylor, interpose this Answer to the allegations of the Order dated April 25, 1972. Said Answer is subscribed by the undersigned as attorney, upon information and belief, with the source of the information and the grounds of belief being conversations with the aforesaid respondent.

AS TO PARAGRAPH 1

1.) Admits the allegations in subparagraphs A and B.

AS TO PARAGRAPH 11

2.) Denies each and every allegation contained in subparagraphs A, B and E.

3.) Admits the allegations contained in subparagraph C as regards filing of the annual report of financial condition under Rule 17a-5, but denies that such late filing was wilfully done so as to violate Section 17(a) of the Exchange Act.

4.) Admits the allegations contained in sub-

paragraph 1) as regards filing of the annual report of income and expenses under Rule 17a-10, but denies that such late filing was wilfully done so as to violate Section 17(a) of the Exchange Act.

5.) Admits the allegations contained in subparagraph F as regards the Consent Injunction (emphasis supplied), referred to, dated June 24, 1972, in the United States District Court for the Southern District of New York.

AS A FIRST AFFIRMATIVE DEFENSE

6.) The respondent, Samuel H. Sloan, is the sole owner and is doing business as a securities broker-dealer under the name of Samuel H. Sloan & Co.

7.) That during the period January, 1971 and continuing to the present, the respondent has diligently and with great concern, maintained the books and records, in particular:

A.) Ledgers reflecting all assets and liabilities, income and expense and capital accounts.

B.) Stock record

C.) Records of securities failed to receive and to deliver.

D.) Confirmations of all customer transactions

E.) Trial balances of ledger accounts.

so as to comply with Section 17(a) of the Exchange Act and Rule 17a-3 and 17a-4 promulgated thereunder.

AS A SECOND AFFIRMATIVE DEFENSE

8.) Respondent repeats and realleges all the matters stated in paragraphs 6 and 7 with the same force and effect as if repeated in full herein.

9.) That during the period January, 1971, to on or about January 31, 1972, respondent's net capital required under Section 15(c)3 of the Exchange Act and Rule 15c3-1 promulgated thereunder was no less than $5,000.00 and the ratio of aggregate indebtedness to net capital was not greater than 2,000 per centum.

AS A THIRD AFFIRMATIVE DEFENSE

10.) Respondent repeats and realleges all the matters stated in paragraphs 6, 7, 8 and 9 with the same force and effect as if repeated in full herein.

11.) That the annual reports of financial condition and income and expenses required under Section 17(a) of the Exchange Act and Rules 17a-5 and 17a-10 respectively, were filed and accepted by the Commission, prior to the date of the Order for Public Proceedings herein.

AS A FOURTH AFFIRMATIVE DEFENSE

12.) Respondent repeats and realleges all the matters stated in paragraphs 6, 7, 8, 9, 10 and 11 with the same force and effect as if repeated in full herein.

13.) That as a matter of law, the mere fact of the existence of a Consent Injunction (emphasis supplied), cannot be the basis for a cause of complaint in an Administrative Proceeding.

A copy of the Answer is herewith being served upon every person on the service list annexed to the Order.

Robert W. Taylor

ROBERT W. TAYLOR, ESQ.
Attorney for Respondent
SAMUEL H. SLOAN d/b/a
SAMUEL H. SLOAN & CO.

Office & P. O. Address
160 Broadway
New York, N. Y. 10038
Tel.: 212 - 233-0677

DATED: NEW YORK, N.Y.
May 16, 1972.

A-404

1175

HE

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of	:	
SAMUEL H. SLOAN d/b/a SAMUEL H. SLOAN & CO.	:	Petition for Review of Initial Decision Administrative Proceeding File No. 3-3680
(8-15750)	:	

To the Securities and Exchange Commission:

The petition of Samuel H. Sloan d/b/a Samuel H. Sloan & Co., requests the Commission to review the Initial Decision under Rule 17 - Rules of Practice of the Commission, in the above stated matter.

A.) Exception is taken to the following findings and conclusion therein:

1.) A prejudicial procedural error was committed in the conduct of the proceeding in that hearsay evidence was admitted over objections and not properly corrected by direct evidence and admission into evidence of matters pending involving respondent with other broker-dealers not subject to or made part of the complaint herein.

2.) The finding that respondent wilfully violated the Commission Rules involved is clearly erroneous and against the weight of evidence.

B.) The findings that respondent Sloan did in fact wilfully intend to violate the alleged violations of

Rules involved is clearly erroneous and against the weight of evidence.

C.) The legal conclusion that respondent Sloan wilfully intended to violate the alleged violations of Rules involved is clearly erroneous and against the weight of evidence.

D.) The findings that respondent's wilfullness required on the alleged violations in this proceeding "does not require an intent to violate the law" is in error and contrary to law and policy of the Commission.

E.) An error of law and policy of the Commission was made in that the Initial Decision weighs upon possible future conduct of the respondent herein as a basis for the decision.

F.) An error is made in that the penalty imposed is contrary to the law and policy of the Commission in that the violations alleged are the first charges against the respondent and the decision for expulsion is punitive in nature as no public interest is involved in this matter.

WHEREFORE, petitioner prays the Commission order

A-406

a review of the Initial Decision herein.

SAMUEL H. SLOAN d/b/a
SAMUEL H. SLOAN & CO.

By Robert W. Taylor
ROBERT W. TAYLOR, ESQ.

Dated: May 8, 1973
New York, N.Y.

A-407.

1181
3-3680-1
R/A

ROBERT W. TAYLOR
ATTORNEY AT LAW

160 BROADWAY
NEW YORK, N. Y. 10038
233-0676-7-8

326 BLOOMFIELD STREET
HOBOKEN, N. J. 07030
798-1067

RECEIVED
OFFICE OF THE SECRETARY
JUN 21 1973

June 19, 1973

Ronald F. Hunt, Secretary
Securities and Exchange Commission
500 North Capitol Street, N.W.
Washington, D. C. 20549

REC'D - S.E.C.
JUN 21 1973

Re: Administrative Proceeding
File No.: 3-3680

Dear Mr. Hunt:

Enclosed please find photostat of settlement and release in the matter of Samuel H. Sloan's claim against J. S. Love & Co., Inc.

During the course of the Administrative Proceeding, I attempted to restrict the discussions of this claim from the hearing, in that I felt it had no application to the violations alleged, while the Commission's staff interjected this extraneous matter in the proceedings and sought to make a great issue of it in their briefs.

I stated to Administrative Law Judge Tracy that I could not enter into any evidential hearing on this point, since to do so would have prejudiced my client and therefore, did not seek to resolve the merits of my clients claim.

An examination of the enclosed release clearly indicates my client was completely correct in this matter and that the securities in issue all belonged to him and he received full payment in restitution for them and committed no untort act in regard to this transaction.

The exact amount involved in the claim $10,273.58 is so listed in the release and completely vindicates my client and clearly establishes the Commissions error in pursuing the matter and should negate the weight given to this one sided presentation and by the Administrative Judge in his decision.

It is respectfully requested that this letter and

ROBERT W. TAYLOR

A-408

Ronald F. Hunt, Secretary

June 19, 1973

the copy of the release attached be made part of the record in this matter and brought to the attention of the Commission in the matter of my petition for review of the Initial Decision.

Very truly yours,

Robert W. Taylor

Robert W. Taylor

RWT:MB
Enc.

Certified Mail - R.R.R. #673271

CC: The Honorable Ralph H. Tracy
Alan M. Rashes, Esq.

that these securities were in Sloan's possession. (R. 141, 142, 161-164, 239, 240, 318-323, Div. Exh. 12) An examination of Sloan's testimony on this matter (R. 318-323) will demonstrate his evasiveness and his over-all attitude to the entire proceeding. In contrast to Sloan's unsupported and unsupportable arguments, stands the testimony of an experienced SEC investigator, as well as Exhibit 12, a list of securities delivered by Sloan to J.S. Love submitted by Love.

Further, counsel is extremely vague and ambiguous as well as incorrect, in stating that all prior testimony concerning the first part of Exhibit 12 was stricken by Judge Tracy. (RB 2) In fact, all that was stricken was a letter from J.S. Love, appended to a list of securities delivered by Sloan to J.S. Love. (R. 139, 140) The letter was stricken, because it stated that such securities were received from Sloan and then sold by Love. Since the Division was not concerned with the sale of these securities, but only with the possession of such securities at a time when Sloan represented that they were in his possession, the Division agreed to delete the letter. The list which demonstrated that the securities in question had been delivered in to J.S. Love by Sloan remained

A-424

1243

3-3680-1
R/A

Samuel H. Sloan
120 Liberty St.
New York, N.Y. 10006
February 27, 1974

Ronald F. Hunt, Secretary
Securities and Exchange Commission
500 North Capitol Street, N.W.
Washington, D.C. 20549

RECD S.E.C.
MAR 1 1974

Re: Administrative Proceeding
File No.: 3-3680

Dear Mr. Hunt:

Enclosed please find a copy of a letter I wrote to Jerome Selvers of the New York Regional Office of the Commission dated February 20, 1974 and the response thereto dated the same day. I also enclose certain other correspondence between myself and the Commission.

It is respectfully requested that this letter and the enclosures attached herein be made part of the record in this matter and brought to the attention of the Commission in the petition for review of the Initial Decision.

First I would like to address myself to the reply of Thomas Bierne dated February 20, 1974. I have always claimed that the Commission was wrong on the three points referred to in my letter, as well as on a number of other points. Since the record was closed as to the Administrative Proceeding I have used the related court action entitled S.E.C. v. Samuel H. Sloan, Samuel H. Sloan & Co., 71 Civil 2695 as a forum to establish the correctness of my claims. (C.C.H. Fed. Sec. Law Rep. #94,338 (transfer binder)). Accordingly, I made a motion before Judge Ward of the U.S. District Court to compel Kanoff and Bruder as well as Nortman, and Rashes to give oral depositions. I also moved pursuant to Rule 37(a) of F.R.Civ.P. for an order compelling the discovery of a deposit slip dated Januray 29, 1971 and a trial balance as the end of April, 1971. This motion was opposed by the Commission on the ground that the production of these documents would place an unreasonable burden on the Commission. The Court denied my motion but stated that I should direct my inquiry to the Commission. Accordingly, I wrote two letters to the Commission asking for the deposit slip, the April, 1971 trial balance, my own depositions, and certain other materials. Mr. Bierne wrote me to deny these requests on the same grounds as he opposed my motion.

I thereupon served a subpoena duces tecum on the Commission for the deposit slip dated January 29, 1971 and the April, 1971 trial balance, as well as for other documents. The Commission moved to quash my subpoena. I felt that Judge Ward denied their motion to quash but when the Court

was adjourned the Commission still refused to produce the documents I sought. Finally, during the second day of the trial I asked in open Court when the Commission would produce the documentary evidence I had requested. The Commission attorneys rose to object but before they could state their objections for the record, Judge Ward ordered them to search their files and to turn over the documents in question if they could locate them and to report the extent of their search if they could not.

The next day Mr. Selvers produced a copy of an April, 1971 trial balance I had submitted to the Commission on June 18, 1971. He withdrew the allegation that I had never given the Commission the April, 1971 trial balance. He did not produce a copy of an April, 1971 trial balance or an April, 1971 stock record I had given the Commission in May, 1971, although Judge Ward specifically ordered that Mr. Selvers produce these documents. However, during a later portion of the trial I found these and other documents I had been seeking sitting on the plaintiff's table in the court room and, after making an appropriate request of Judge Ward, I offered these documents into evidence.

I am bringing these matters to the attention of the Commission because it appears to me that members of the Commission's legal staff have withheld documentary evidence favorably to me and have defied an order of Judge Ward. I also submit that Mr. Selvers made false statements to Judge Ward concerning my B-D file and attempted to defraud the Court by representing to the Court that the document offered into evidence as plaintiff's exhibit 1 was in fact my complete B-D file.

In addition, during the trial the Commission offered into evidence a certified financial questionnaire prepared by Robert W. Taylor for Samuel H. Sloan & Co. as of June 30, 1971. The Commission deleted from this exhibit the balance sheet prepared by Taylor. I submit that this was an attempt to mislead the Court. Obviously, the balance sheet is the most important part of any financial questionnaire prepared by a certified public accountant. Furthermore, the Commission would not give me a copy of a deposition of Joe Iny taken in Judge McLean's court and would not file it with the Court even though this was supposed to be part of the official record of the case.

I would like to call the attention of the Commission to the canons of legal ethics. The Code of Responsibility of the American Bar Association, Canon 7, includes the following provisions:

"In appearing in his professional capacity before a tribunal, a lawyer shall not:

"(1) State or allude to any matter that he has no

reasonable basis to believe is relevant to the case or that will not be supported by admissible evidence.

"(7) Intentionally or habitually violate any established rule of procedure or of evidence."

The attorneys for the Commission have repeatedly and habitually violated these and other canons of legal ethics over a two and a half year period in both this proceeding and in the related administrative proceeding. I am aware that this is a serious charge. I am prepared to substantiate this claim in detail with repect to each of the five attorneys in question. The following is a summary of my claim with respect to each attorney:

GEORGE W. BRANDT, JR.

Mr. Brandt was at a meeting in April, 1971 where Joe Barton, Mr. Kanoff's superior, told Kanoff that my record keeping system was adequate. Nevertheless, Brandt helped to prepare a memorandum of law which was submitted to Judge McLean which stated that the opposite was true. Brandt also took a deposition of Joe Iny in which Iny stated that he was satisfied with his dealings with me. Later, Iny told Brandt that he had received all cash and securities due to him from me. Nevertheless, in a memorandum of law prepared in June, 1971 and in statements made in Judge McLean's chambers on June 21, 1971, Brandt represented to the Court that he had reason to believe that I was, in effect, in process of stealing a large sum of money from Iny or from perhaps other unknown customers. Brandt had no information upon which to base these statements. These statements were, in fact, untrue. As a result of these vicious lies, the Court granted a temporary restraining order and I suffered irreparable damages.

Brandt also told Judge McLean that I had not submitted an April, 1971 trial balance. However, at the trial on December 20, 1973, Mr. Bierne admitted that two separate copies of the April, 1971 trial balance had been found in the files of George Brandt, who was then no longer with the Commission. It is interesting to note that the Commission's legal staff was eager to blame this affair on an attorney who was no longer employed by the Commission.

ALAN M. RASHES

Mr. Rashes represented the Commission at the administrative hearing assisted by Jerome Selvers, who, I understand, was not a member of the bar at that time. At the hearing, Bruder testified that he could not recall receiving a deposit slip from me showing a deposit of $10,000. However, Rashes had the deposit slip in his hand when the question was asked. Instead of refreshing Bruder's memory, Rashes let the matter stand, thereby leading Judge Tracy to believe that no deposit slip existed. In addition, Kanoff testified that he observed

me doing business when he visited my office on August 10, 1971. However, on the occasion in question Rashes came with Kanoff to my office. Rashes did not see me there because I was not present. In addition, Rashes knew that I had obtained a job elsewhere. Consequently, Rashes knew that Kanoff was wrong in his testimony. Furthermore, Kanoff testified that he never received the April, 1971 trial balance. Naturally, Judge Tracy was inclined to believe Mr. Kanoff. If Rashes had looked through the Commission's investigative files he would have found the April, 1971 trial balance in the files of George Brandt. Again the hearing examiner was mislead.

At this point I must say that I do not believe Kanoff deliberately gave false testimony. I have had my problems with Mr. Kanoff and I do not agree with everything he has said. However, having heard his testimony on two separate occasions I must state that nothing he has said has led me to believe that he would deliberately lie under oath. I do believe, however, that Kanoff was confused. It is clear to me from the record that when Kanoff stated I was doing business on August 10, 1971 he though he was testifying about another date, perhaps April, 1971. As to the April, 1971 trial balance it is possible that Kanoff turned the trial balance over to Brandt and promptly forgot about it. It is also possible that Kanoff never received the April, 1971 trial balance. I sent the trial balances in question to the offices of the Commission at 26 Federal Plaza by messenger. It is entirely possible that these trial balances reached the desk of Mr. Brandt without ever passing through the hands of Kanoff.

On this point it is the duty of the attorneys for the Commission to make sure their witnesses testify in a manner consistant with the truth. The witnesses are expected to recall many details and their memories are likely to be hazy. This is particularly true of Mr. Bruder who has undoubtedly lost touch with the facts of the case since he retired from the Commission in March, 1971. It is not surprising that he forgot about the deposit slip for the $10,000. The same is true of Mr. Kanoff. Even if his memory is better than average, he is only an investigator, he is not an attorney, and he does not have the facts and the documents available at his fingertips. I submit that the reponsibility for the errors in the record lies with Rashes and Selvers rather than with Kanoff.

THOMAS R. BIERNE

Mr. Bierne has managed to hold himself relatively aloof from the issues in controversy. However, he had made certain material misrepresentations to the Court. After

denying my written request to see my own oral depositions, Mr. Bierne told Judge Ward that I had been given the opportunity to do so. A copy of his letter is included in the attached corresponce. Also contained in the letter is an admission that Mr. Taylor sought the Commission's help in storing my records after I stopped doing business in August, 1973. In spite of this, Bierne helped prepare a memorandum which falsely represented to the Court that I attempted to keep my records from the Commission. In addition, I regard Mr. Bierne's letter dated February 20, 1974 to be impertinent. The office of hearing examiners is supposed to be independent from the Commission's legal staff. Bierne is only the prosecutor, notthe judge and the jury. He has no right to interpose his own views as to what Judge Tracy would have decided if he had all the facts available to him. In addition, the "new discoveries" referred to in my letter dated February 20, 1974 were new to me and to the Court, but not new to the Commission's legal staff. They had the evidence and information in question all along. Also, Bierne, together with Selvers and Nortman, submitted proposed findings of fact and conclusions of law to Judge Ward which contained numerous untrue statements. I should not be required to fight tooth and nail with the Commission's legal staff in order to disprove their case on points where they are clearly wrong. In the proceedings in question there does not exist a true advisory system. The Commission attorneys are supposed to be objective and to use discretion. The Court should not be burdened with having to sift though irrelevant, untrue and unsubstantial claims.

JEROME SELVERS

Many of the statements relevant to Bierne and Rashes also apply to Selvers. Selvers is the attorney officially assigned to my case at the present time. He is handling both the administrative proceeding and the action before the U.S. District Court. However, he appears to be working for Bierne.

My dealings with Selvers have fallen from such cerebral issues as questions of fact and law and have become a matter of a conflict of personalities. Ever since Selvers became assigned to my case, I have experienced problems with the Commission which I would characterize as hitting below the belt. I previously had two girls from Iceland working for me. There came a time when they started acting in a strange and irrational manners. Later, both of the girls refused to speak to me and they deliberately changed their address, disconnected their telephone, and made it impossible for me to find them. However, I was able to speak to the boyfriend of one of them on the telephone, and he practically threatened me. Shortly before the trial I located one of the girls, the other having moved back to Iceland. I tried to find out what causedher to act the way she did. It appeared from her comments to me that

WILLIAM NORTMAN

I haved saved Mr. Nortman for last because he appears to be the prime culprit in the case. The statements made about the other Commission attorneys must be taken in light of the fact that they appear to be working under Nortman. After dealing with Mr. Nortman for almost three years I am constrained to state that I find him to be utterly dishonest and irresponsible. I feel he is a discredit to the bar and to the Commission.

Nortman helped prepare a memorandum of law dated June 18, 1971. This memorandum contained statements unsupported by affidavit submitted to the Court or by evidence available to the Commission. I described a number of these false statements in detail in a special supplemental affidavit I submitted to Judge Ward. Mr. Nortman was also present in Judge McLean's chambers when Brandt made a number of false statements to the Court. Although Brandt and not Nortman made these statements, Nortman assented to them by his silence. At that time the Court ordered, with the consent of Nortman, that I would be temporarily restrained from entering into new transactions, but that I could consumate existing transactions. However, no sooner had we left Judge McLean's chambers when Nortman called Jim Wolf, my account officer at Chemical Bank, and instructed him on the telephone to bounce all of my checks. On June 23, 1971 Nortman appeared before Judge McLean and made statements to the Court for the purpose of covering up what he had done. When I realized that Nortman was lying and resorting to double talk and that he was prepared to lie repeatedly to win his case in court, I felt I had no choice but to consent to a preliminary injunction.

On July 28, 1971 I met in Nortman's office at the Commission with my attorney Weiss, my accountant Taylor, Kanoff, Nortman, and another member of the staff of the Commission. Nortman agreed that I would be permitted to do a limited amount of business even if I were in technical violation of the net capital rule. I adhered faithfully to this agreement. Later, Nortman tried to hide evidence of the existence of this meeting. My attorney sought to obtain an internal memorandum from the Commission relative to this meeting in order to establish that this meeting occurred and what agreements were reached at that time. The staff of the Commission advised my attorney that they could not find the memorandum in question and that perhaps it had been lost or destroyed. The Commission staff now agrees and admits that this meeting took place but it has not voluntarily offered any evidence as to what occurred at the meeting. This led Judge Tracy to reach the wrong conclusion as to the substance of the meeting and Judge Ward to make no findings relative to it at all. In

this case as in other cases the efforts of the Commission's legal staff to hide or distort facts favorable to me were successful. I consider the fact of this meeting to be a complete defense as to all claims for equitable relief made against me.

In addition, both Nortman and Rashes threatened to commence an administrative proceeding against me if I did not consent to a permanent injunction and thereby settle the civil action in the U.S. District Court. I stubbornly refused to consent to a permanent injunction on the ground that I had done nothing wrong. As a reward for my stubborness, I was forced to defend on two fronts. I consider it improper for the Commission to use the threat of public hearings as a lever to cause me to consent to a permanent injunction in an unrelated action. Thus far, I have spent a total of $7200 in my defense in both actions and the amount would have been much greater except that I appeared pro se at the trial in the Court action. The Commission also delayed the Court action in order to be able to proceed administratively for essentially the same kind of remedy. I submit that this tactic was also improper. The Commission chose their own forum in electing to proceed before the U.S. District Courts. They acted unfairly in changing their forum midstream and doubling the burden of my defense.

I tried to call Nortman to testify at my trial. I served a subpoena personally upon him and tendered him $20 in witness fees. I have no idea if he kept the money forhimself or turned it over to the Commission. In the event that he kept the money, I would ask that he return it to me.

When I called Nortman to testify, the Commission objected vigorously. It was obvious to me from his comments that Mr. Nortman felt he had a lot to hide. After the trial Nortman made it known through his comments to me that he considered my efforts to call him as a witness to be a personal affront. I have no desire to get into personal disputes with members of the Commission's legal staff.

I note that the Commission is constantly charging brokers with a failure to supervise their employees. It seems to me, however, that the Commission itself exercises no supervisory authority over its own staff. There is no other way to explain the abuses I have cited involving five separate attorneys employed by the Commission over a three year period. I submit that there is a public interest in seeing that the attorneys for the Commission do not abuse the vast discretionary authority vested in them by the Congress and the President of the United States. Nortman, for example, has great power. He is the number two man in the New York Regional Office of the Commission. He almost singlehandedly made the decision to force the liquid-

ation of Weis Securities, Inc. As a practical matter, he could probably force almost any broker dealer in Wall Street to close down.

The abuses I have just cited have occurred as a direct result of the vast discretionary authority which Congress has placed in the hands of the Commission. There is no system of checks and balances within the Commission itself. There is no procedure for a redress of grievances. In private litigation, if a party is opposed by an unprincipled attorney, he can complain to the judge considering the case or, if necessary, he can complain to the grievance committee of the bar association. No such procedure exists within the New York Regional Office of the Commission. If I am dissatisfied with the rulings of Bierne and try to obtain redress by writing a letter to Moran, Bierne will answer my letter. When I write a letter to almost anyone at the Commission, the answer usually comes from someone else with no explanation. For example, on February 19, 1974 I called the Commission's office in Washington to inquire to whom I should address my letter concerning the administrative proceeding. After being switched around several times I was finally told to write Selyers. I did in fact write to Selvers, but received an answer from Bierne. Now I am forced to write directly to the Commission, realizing that the Commission may simply refer this letter to Selvers which will put me back where I started. Obviously, Selvers is not going to help me. It should not even be necessary for me to ask Selvers to withdraw an allegation in the administrative proceeding which he voluntarily withdrew before Judge Ward. Frankly, when I came back from Europe I was surprised to find that Selvers had not taken this action on his own.

In conclusion, I would like to make several requests of the Commission. As I have stated before, I ask that this letter be included in the official record of the administrative proceeding. In addition, I would like an answer to the issues raised herein. I do not feel that the matters referred to in this letter should be taken lightly. I regard them as serious as they have affected the course of my life. In addition, I ask that the Commission discontinue the administrative proceeding against me. Furthermore, I ask that the Commission move the U.S. District Court to open the judgement entered against me and to discontinue that proceeding. This should be done on the principle that he who seeks equity must do equity. The Commission has not been equitable with me and it is not entitled to equitable relief. In addition, the Commission represented proposed findings of fact to the Court which were clearly erroneous.

I would like to raise one further issue with regard to the administrative proceeding. That is the question of the constitutionality of the Securities Exchange

A-432

1254

IN REPLYING PLEASE QUOTE

NY-E:JMS

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
REGIONAL OFFICE
26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

February 20, 1974

Mr. Samuel H. Sloan
120 Liberty Street
New York, New York 10006

Re: In the Matter of Samuel H. Sloan & Co.
Administrative Proceeding File No. 3-3680

Dear Mr. Sloan:

This will acknowledge receipt of your letter of February 20, 1974.

Regarding your request, we have reviewed the material which you brought to our attention and have concluded that those matters are in no way material, in that they would not change the outcome of the administrative proceeding. As you know, Judge Tracy's findings of fact and conclusions of law covered a vastly larger area than the material you cite and, in large measure, were uncontroverted.

We, therefore, have no intention of requesting that the record be opened in this matter.

Very truly yours,

WILLIAM D. MORAN
Regional Administrator

by Thomas R. Beirne

Thomas R. Beirne
Chief Attorney, Br. #3

52

A-433

1255

Samuel H. Sloan
120 Liberty St.
New York, N.Y. 10006
February 20, 1974

Jerome Selvers
Securities & Exchange Commission
26 Federal Plaza
New York, N.Y.

RE: Administrative Proceeding
File #3-3680

Dear Mr. Selvers,

I recently returned from a six week vacation in Europe. Having not received any notice to the contrary from the Commission I assume that the foregoing administrative proceeding is still pending. As you know, certain evidence was developed at the trial of the related action before Judge Robert J. Ward which bears directly on the proposed findings of fact and conclusions of law which you submitted to Judge Tracy as part of the Administrative proceeding. Specifically, I refer to the following matters:

1) At the administrative proceeding Kanoff testified that the Commission never received an April, 1971 trial balance. I testified that I had submitted such a trial balance. Judge Tracy chose to believe Mr. Kanoff and not to believe me.

At the trial, however, Judge Ward ordered you to search the files of the Commission for an April, 1971 trial balance. As a result of this search you produced two copies of the April, 1971 trial balances. The Commission attorneys told Judge Ward that these trial balances had been located in the files of George W. Brandt, Jr., a former Commission

attorney. It appears from the testimony and evidence presented at the trial that I submitted an April, 1971 trial balance sometime in May, 1971, an April, 1971 stock record on May 20, 1971 and that I also submitted a second copy of the April, 1971 trial balance on June 18, 1971. In the proceeding before Judge Ward you withdrew the allegation that I never submitted an April, 1971 trial balance following your production of this documentary evidence.

2) At the trial you also produced a deposit slip dated January 29, 1971 showing a deposit of $10,000. At the administrative hearing Bruder testified that he did not recall receiving such a deposit slip. It is clear from the initial decision that Judge Tracy assumed that I had never given Mr. Bruder such a deposit slip. The deposit slip in question which was given by me to Bruder was not produced by the Commission at the administrative hearing.

3) At the trial before Judge Ward, Kanoff testified that I was not present in his office on August 10, 1971 and that I was present but not doing business on August 12, 1971. This testimony is contrary to his testimony at the administrative hearing.

In view of these new developments, I feel it is incumbent upon you to inform both Judge Tracy and the Commission itself of these facts. I request that you write them a letter concerning these new developments and that you send a copy of that letter to either me or Mr. Taylor or both. Mr. Taylor, who represented me at the administrative hearing, did not represent me in the court action and has no knowledge

of these facts. In addition, I have not as yet discussed this matter with him as I left for Europe shortly after the end of the trial.

At this time I request that you discontinue the administrative proceeding voluntarily. I make this request in light of these new developments and also in light of the fact that prior to the commencement of the administrative proceeding the Commission offered not to hold public hearings provided that I would consent to a permanent injunction. After the notice of these hearings had been filed and served upon me the Commission repeated this offer. I note that the Commission has now obtained the relief it originally sought, i.e., a permanent injunction. I intend to appeal the decision of the U.S. District Court in that matter. Under the circumstances, I feel that an unreasonable burden has been placed upon me to continue to defendant in two seperate proceedings.

If you decide to continue with the administrative proceeding, my intention is to withdraw my request to withdraw my broker dealer registration. I have no present intention of doing business as a broker-dealer. However, there is no purpose in my keeping a form BDW continuously on file with the Commission if you are going to refuse to act on it.

In addition, I request that you make available to me a copy of a letter delivered by hand by Mr. Bruder to me on January 14, 1971. A reading of the administrative proceeding transcript reveals that such a letter exists. However, I do not believe I saw such a letter among the

A-436

letters you showed me pursuant to an order of Judge Ward. I assume that order is still in effect. I need this letter in connection with a motion I intend to make before Judge Ward.

I am sending a copy of this letter to Mr. Taylor in order to alert him to these recent developments.

Very truly yours,

SAMUEL H. SLOAN

cc: Robert W. Taylor
160 Broadway
New York, N.Y.

that these securities were in Sloan's possession. (R. 141, 142, 161-164, 239, 240, 318-323, Div. Exh. 12) An examination of Sloan's testimony on this matter (R. 318-323) will demonstrate his evasiveness and his over-all attitude to the entire proceeding. In contrast to Sloan's unsupported and unsupportable arguments, stands the testimony of an experienced SEC investigator, as well as Exhibit 12, a list of securities delivered by Sloan to J.S. Love submitted by Love.

Further, counsel is extremely vague and ambiguous as well as incorrect, in stating that all prior testimony concerning the first part of Exhibit 12 was stricken by Judge Tracy. (RB 2) In fact, all that was stricken was a letter from J.S. Love, appended to a list of securities delivered by Sloan to J.S. Love. (R. 139, 140) The letter was stricken, because it stated that such securities were received from Sloan and then sold by Love. Since the Division was not concerned with the sale of these securities, but only with the possession of such securities at a time when Sloan represented that they were in his possession, the Division agreed to delete the letter. The list which demonstrated that the securities in question had been delivered in to J.S. Love by Sloan remained

New York, N.Y. [illegible]
February 27, 1974

Ronald F. Hunt, Secretary
Securities and Exchange Commission
500 North Capitol Street, N.W.
Washington, D.C. 20549

RECD S.E.C.
MAR 1 1974

Re: Administrative Proceeding
File No.: 3-3680

Dear Mr. Hunt:

Enclosed please find a copy of a letter I wrote to Jerome Selvers of the New York Regional Office of the Commission dated February 20, 1974 and the response thereto dated the same day. I also enclose certain other correspondence between myself and the Commission.

It is respectfully requested that this letter and the enclosures attached herein be made part of the record in this matter and brought to the attention of the Commission in the petition for review of the Initial Decision.

First I would like to address myself to the reply of Thomas Bierne dated February 20, 1974. I have always claimed that the Commission was wrong on the three points referred to in my letter, as well as on a number of other points. Since the record was closed as to the Administrative Proceeding I have used the related court action entitled S.E.C. v. Samuel H. Sloan, Samuel H. Sloan & Co., 71 Civil 2695 as a forum to establish the correctness of my claims. (C.C.H. Fed. Sec. Law Rep. #94,338 (transfer binder)). Accordingly, I made a motion before Judge Ward of the U.S. District Court to compel Kanoff and Bruder as well as Nortman, and Rashes to give oral depositions. I also moved pursuant to Rule 37(a) of F.R.Civ.P. for an order compelling the discovery of a deposit slip dated Januray 29, 1971 and a trial balance as the end of April, 1971. This motion was opposed by the Commission on the ground that the production of these documents would place an unreasonable burden on the Commission. The Court denied my motion but stated that I should direct my inquiry to the Commission. Accordingly, I wrote two letters to the Commission asking for the deposit slip, the April, 1971 trial balance, my own depositions, and certain other materials. Mr. Bierne wrote me to deny these requests on the same grounds as he opposed my motion.

I thereupon served a subpoena duces tecum on the Commission for the deposit slip dated January 29, 1971 and the April, 1971 trial balance, as well as for other documents. The Commission moved to quash my subpoena. I felt that Judge Ward denied their motion to quash but when the Court

was adjourned the Commission still refused to produce the documents I sought. Finally, during the second day of the trial I asked in open Court when the Commission would produce the documentary evidence I had requested. The Commission attorneys rose to object but before they could state their objections for the record, Judge Ward ordered them to search their files and to turn over the documents in question if they could locate them and to report the extent of their search if they could not.

The next day Mr. Selvers produced a copy of an April, 1971 trial balance I had submitted to the Commission on June 18, 1971. He withdrew the allegation that I had never given the Commission the April, 1971 trial balance. He did not produce a copy of an April, 1971 trial balance or an April, 1971 stock record I had given the Commission in May, 1971, although Judge Ward specifically ordered that Mr. Selvers produce these documents. However, during a later portion of the trial I found these and other documents I had been seeking sitting on the plaintiff's table in the court room and, after making an appropriate request of Judge Ward, I offered these documents into evidence.

I am bringing these matters to the attention of the Commission because it appears to me that members of the Commission's legal staff have withheld documentary evidence favorably to me and have defied an order of Judge Ward. I also submit that Mr. Selvers made false statements to Judge Ward concerning my B-D file and attempted to defraud the Court by representing to the Court that the document offered into evidence as plaintiff's exhibit 1 was in fact my complete B-D file.

In addition, during the trial the Commission offered into evidence a certified financial questionnaire prepared by Robert W. Taylor for Samuel H. Sloan & Co. as of June 30, 1971. The Commission deleted from this exhibit the balance sheet prepared by Taylor. I submit that this was an attempt to mislead the Court. Obviously, the balance sheet is the most important part of any financial questionnaire prepared by a certified public accountant. Furthermore, the Commission would not give me a copy of a deposition of Joe Iny taken in Judge McLean's court and would not file it with the Court even though this was supposed to be part of the official record of the case.

I would like to call the attention of the Commission to the canons of legal ethics. The Code of Responsibility of the American Bar Association, Canon 7, includes the following provisions:

"In appearing in his professional capacity before a tribunal, a lawyer shall not:

"(1) State or allude to any matter that he has no

reasonable basis to believe is relevant to the case or that will not be supported by admissible evidence.

"(7) Intentionally or habitually violate any established rule of procedure or of evidence."

The attorneys for the Commission have repeatedly and habitually violated these and other canons of legal ethics over a two and a half year period in both this proceeding and in the related administrative proceeding. I am aware that this is a serious charge. I am prepared to substantiate this claim in detail with repect to each of the five attorneys in question. The following is a summary of my claim with respect to each attorney:

GEORGE W. BRANDT, JR.

Mr. Brandt was at a meeting in April, 1971 where Joe Barton, Mr. Kanoff's superior, told Kanoff that my record keeping system was adequate. Nevertheless, Brandt helped to prepare a memorandum of law which was submitted to Judge McLean which stated that the opposite was true. Brandt also took a deposition of Joe Iny in which Iny stated that he was satisfied with his dealings with me. Later, Iny told Brandt that he had received all cash and securities due to him from me. Nevertheless, in a memorandum of law prepared in June, 1971 and in statements made in Judge McLean's chambers on June 21, 1971, Brandt represented to the Court that he had reason to believe that I was, in effect, in process of stealing a large sum of money from Iny or from perhaps other unknown customers. Brandt had no information upon which to base these statements. These statements were, in fact, untrue. As a result of these vicious lies, the Court granted a temporary restraining order and I suffered irreparable damages.

Brandt also told Judge McLean that I had not submitted an April, 1971 trial balance. However, at the trial on December 20, 1973, Mr. Bierne admitted that two separate copies of the April, 1971 trial balance had been found in the files of George Brandt, who was then no longer with the Commission. It is interesting to note that the Commission's legal staff was eager to blame this affair on an attorney who was no longer employed by the Commission.

ALAN M. RASHES

Mr. Rashes represented the Commission at the administrative hearing assisted by Jerome Selvers, who, I understand, was not a member of the bar at that time. At the hearing, Bruder testified that he could not recall receiving a deposit slip from me showing a deposit of $10,000. However, Rashes had the deposit slip in his hand when the question was asked. Instead of refreshing Bruder's memory, Rashes let the matter stand, thereby leading Judge Tracy to believe that no deposit slip existed. In addition, Kanoff testified that he observed

me doing business when he visited my office on August 10, 1971. However, on the occasion in question Rashes came with Kanoff to my office. Rashes did not see me there because I was not present. In addition, Rashes knew that I had obtained a job elsewhere. Consequently, Rashes knew that Kanoff was wrong in his testimony. Furthermore, Kanoff testified that he never received the April, 1971 trial balance. Naturally, Judge Tracy was inclined to believe Mr. Kanoff. If Rashes had looked through the Commission's investigative files he would have found the April, 1971 trial balance in the files of George Brandt. Again the hearing examiner was mislead.

At this point I must say that I do not believe Kanoff deliberately gave false testimony. I have had my problems with Mr. Kanoff and I do not agree with everything he has said. However, having heard his testimony on two separate occasions I must state that nothing he has said has led me to believe that he would deliberately lie under oath. I do believe, however, that Kanoff was confused. It is clear to me from the record that when Kanoff stated I was doing business on August 10, 1971 he though he was testifying about another date, perhaps April, 1971. As to the April, 1971 trial balance it is possible that Kanoff turned the trial balance over to Brandt and promptly forgot about it. It is also possible that Kanoff never received the April, 1971 trial balance. I sent the trial balances in question to the offices of the Commission at 26 Federal Plaza by messenger. It is entirely possible that these trial balances reached the desk of Mr. Brandt without ever passing through the hands of Kanoff.

On this point it is the duty of the attorneys for the Commission to make sure their witnesses testify in a manner consistant with the truth. The witnesses are expected to recall many details and their memories are likely to be hazy. This is particularly true of Mr. Bruder who has undoubtedly lost touch with the facts of the case since he retired from the Commission in March, 1971. It is not surprising that he forgot about the deposit slip for the $10,000. The same is true of Mr. Kanoff. Even if his memory is better than average, he is only an investigator, he is not an attorney, and he does not have the facts and the documents available at his fingertips. I submit that the reponsibility for the errors in the record lies with Rashes and Selvers rather than with Kanoff.

THOMAS R. BIERNE

Mr. Bierne has managed to hold himself relatively aloof from the issues in controversy. However, he had made certain material misrepresentations to the Court. After

denying my written request to see my own oral depositions, Mr. Bierne told Judge Ward that I had been given the opportunity to do so. A copy of his letter is included in the attached corresponce. Also contained in the letter is an admission that Mr. Taylor sought the Commission's help in storing my records after I stopped doing business in August, 1973. In spite of this, Bierne helped prepare a memorandum which falsely represented to the Court that I attempted to keep my records from the Commission. In addition, I regard Mr. Bierne's letter dated February 20, 1974 to be impertinent. The office of hearing examiners is supposed to be independent from the Commission's legal staff. Bierne is only the prosecutor, not the judge and the jury. He has no right to interpose his own views as to what Judge Tracy would have decided if he had all the facts available to him. In addition, the "new discoveries" referred to in my letter dated February 20, 1974 were new to me and to the Court, but not new to the Commission's legal staff. They had the evidence and information in question all along. Also, Bierne, together with Selvers and Nortman, submitted proposed findings of fact and conclusions of law to Judge Ward which contained numerous untrue statements. I should not be required to fight tooth and nail with the Commission's legal staff in order to disprove their case on points where they are clearly wrong. In the proceedings in question there does not exist a true advisory system. The Commission attorneys are supposed to be objective and to use discretion. The Court should not be burdened with having to sift though irrelevant, untrue and unsubstantial claims.

JEROME SELVERS

Many of the statements relevant to Bierne and Rashes also apply to Selvers. Selvers is the attorney officially assigned to my case at the present time. He is handling both the administrative proceeding and the action before the U.S. District Court. However, he appears to be working for Bierne.

My dealings with Selvers have fallen from such cerebral issues as questions of fact and law and have become a matter of a conflict of personalities. Ever since Selvers became assigned to my case, I have experienced problems with the Commission which I would characterize as hitting below the belt. I previously had two girls from Iceland working for me. There came a time when they started acting in a strange and irrational manners. Later, both of the girls refused to speak to me and they deliberately changed their address, disconnected their telephone, and made it impossible for me to find them. However, I was able to speak to the boyfriend of one of them on the telephone, and he practically threatened me. Shortly before the trial I located one of the girls, the other having moved back to Iceland. I tried to find out what causedher to act the way she did. It appeared from her comments to me that

WILLIAM NORTMAN

I haved saved Mr. Nortman for last because he appears to be the prime culprit in the case. The statements made about the other Commission attorneys must be taken in light of the fact that they appear to be working under Nortman. After dealing with Mr. Nortman for almost three years I am constrained to state that I find him to be utterly dishonest and irresponsible. I feel he is a discredit to the bar and to the Commission.

Nortman helped prepare a memorandum of law dated June 18, 1971. This memorandum contained statements unsupported by affidavit submitted to the Court or by evidence available to the Commission. I described a number of these false statements in detail in a special supplemental affidavit I submitted to Judge Ward. Mr. Nortman was also present in Judge McLean's chambers when Brandt made a number of false statements to the Court. Although Brandt and not Nortman made these statements, Nortman assented to them by his silence. At that time the Court ordered, with the consent of Nortman, that I would be temporarily restrained from entering into new transactions, but that I could consumate existing transactions. However, no sooner had we left Judge McLean's chambers when Nortman called Jim Wolf, my account officer at Chemical Bank, and instructed him on the telephone to bounce all of my checks. On June 23, 1971 Nortman appeared before Judge McLean and made statements to the Court for the purpose of covering up what he had done. When I realized that Nortman was lying and resorting to double talk and that he was prepared to lie repeatedly to win his case in court, I felt I had no choice but to consent to a preliminary injunction.

On July 28, 1971 I met in Nortman's office at the Commission with my attorney Weiss, my accountant Taylor, Kanoff, Nortman, and another member of the staff of the Commission. Nortman agreed that I would be permitted to do a limited amount of business even if I were in technical violation of the net capital rule. I adhered faithfully to this agreement. Later, Nortman tried to hide evidence of the existence of this meeting. My attorney sought to obtain an internal memorandum from the Commission relative to this meeting in order to establish that this meeting occurred and what agreements were reached at that time. The staff of the Commission advised my attorney that they could not find the memorandum in question and that perhaps it had been lost or destroyed. The Commission staff now agrees and admits that this meeting took place but it has not voluntarily offered any evidence as to what occurred at the meeting. This led Judge Tracy to reach the wrong conclusion as to the substance of the meeting and Judge Ward to make no findings relative to it at all. In

1250

this case as in other cases the efforts of the Commission's legal staff to hide or distort facts favorable to me were successful. I consider the fact of this meeting to be a complete defense as to all claims for equitable relief made against me.

In addition, both Nortman and Rashes threatened to commence an administrative proceeding against me if I did not consent to a permanent injunction and thereby settle the civil action in the U.S. District Court. I stubbornly refused to consent to a permanent injunction on the ground that I had done nothing wrong. As a reward for my stubborness, I was forced to defehd on two fronts. I consider it improper for the Commission to use the threat of public hearings as a lever to cause me to consent to a permanent injunction in an unrelated action. Thus far, I have spent a total of $7200 in my defense in both actions and the amount would have been much greater except that I appeared pro se at the trial in the Court action. The Commission also delayed the Court action in order to be able to proceed administratively for essentially the same kind of remedy. I submit that this tactic was also improper. The Commission chose their own forum in electing to proceed before the U.S. District Courts. They acted unfairly in changing their forum midstream and doubling the burden of my defense.

I tried to call Nortman to testify at my trial. I served a subpoena personally upon him and tendered him $20 in witness fees. I have no idea if he kept the money for himself or turned it over to the Commission. In the event that he kept the money, I would ask that he return it to me.

When I called Nortman to testify, the Commission objected vigorously. It was obvious to me from his comments that Mr. Nortman felt he had a lot to hide. After the trial Nortman made it known through his comments to me that he considered my efforts to call him as a witness to be a personal affront. I have no desire to get into personal disputes with members of the Commission's legal staff.

I note that the Commission is constantly charging brokers with a failure to supervise their employees. It seems to me, however, that the Commission itself exercises no supervisory authority over its own staff. There is no other way to explain the abuses I have cited involving five separate attorneys employed by the Commission over a three year period. I submit that there is a public interest in seeing that the attorneys for the Commission do not abuse the vast discretionary authority vested in them by the Congress and the President of the United States. Nortman, for example, has great power. He is the number two man in the New York Regional Office of the Commission. He almost singlehandedly made the decision to force the liquid-

ation of Weis Securities, Inc. As a practical matter, he could probably force almost any broker dealer in Wall Street to close down.

The abuses I have just cited have occurred as a direct result of the vast discretionary authority which Congress has placed in the hands of the Commission. There is no system of checks and balances within the Commission itself. There is no procedure for a redress of grievances. In private litigation, if a party is opposed by an unprincipled attorney, he can complain to the judge considering the case or, if necessary, he can complain to the grievance committee of the bar association. No such procedure exists within the New York Regional Office of the Commission. If I am dissatisfied with the rulings of Bierne and try to obtain redress by writing a letter to Moran, Bierne will answer my letter. When I write a letter to almost anyone at the Commission, the answer usually comes from someone else with no explanation. For example, on February 19, 1974 I called the Commission's office in Washington to inquire to whom I should address my letter concerning the administrative proceeding. After being switched around several times I was finally told to write Selyers. I did in fact write to Selvers, but received an answer from Bierne. Now I am forced to write directly to the Commission, realizing that the Commission may simply refer this letter to Selvers which will put me back where I started. Obviously, Selvers is not going to help me. It should not even be necessary for me to ask Selvers to withdraw an allegation in the administrative proceeding which he voluntarily withdrew before Judge Ward. Frankly, when I came back from Europe I was surprised to find that Selvers had not taken this action on his own.

In conclusion, I would like to make several requests of the Commission. As I have stated before, I ask that this letter be included in the official record of the administrative proceeding. In addition, I would like an answer to the issues raised herein. I do not feel that the matters referred to in this letter should be taken lightly. I regard them as serious as they have affected the course of my life. In addition, I ask that the Commission discontinue the administrative proceeding against me. Furthermore, I ask that the Commission move the U.S. District Court to open the judgement entered against me and to discontinue that proceeding. This should be done on the principle that he who seeks equity must do equity. The Commission has not been equitable with me and it is not entitled to equitable relief. In addition, the Commission represented proposed findings of fact to the Court which were clearly erroneous.

I would like to raise one further issue with regard to the administrative proceeding. That is the question of the constitutionality of the Securities Exchange

A-432

1254

IN REPLYING PLEASE QUOTE

NY-E:JMS

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
REGIONAL OFFICE
26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

February 20, 1974

Mr. Samuel H. Sloan
120 Liberty Street
New York, New York 10006

Re: In the Matter of Samuel H. Sloan & Co.
Administrative Proceeding File No. 3-3680

Dear Mr. Sloan:

This will acknowledge receipt of your letter of February 20, 1974.

Regarding your request, we have reviewed the material which you brought to our attention and have concluded that those matters are in no way material, in that they would not change the outcome of the administrative proceeding. As you know, Judge Tracy's findings of fact and conclusions of law covered a vastly larger area than the material you cite and, in large measure, were uncontroverted.

We, therefore, have no intention of requesting that the record be opened in this matter.

Very truly yours,

WILLIAM D. MORAN
Regional Administrator

by Thomas R. Beirne

Thomas R. Beirne
Chief Attorney, Br. #3

52

A-433

1255

Samuel H. Sloan
120 Liberty St.
New York, N.Y. 10006
February 20, 1974

Jerome Selvers
Securities & Exchange Commission
26 Federal Plaza
New York, N.Y.

RE: Administrative Proceeding
File #3-3680

Dear Mr. Selvers,

I recently returned from a six week vacation in Europe. Having not received any notice to the contrary from the Commission I assume that the foregoing administrative proceeding is still pending. As you know, certain evidence was developed at the trial of the related action before Judge Robert J. Ward which bears directly on the proposed findings of fact and conclusions of law which you submitted to Judge Tracy as part of the Administrative proceeding. Specifically, I refer to the following matters:

1) At the administrative proceeding Kanoff testified that the Commission never received an April, 1971 trial balance. I testified that I had submitted such a trial balance. Judge Tracy chose to believe Mr. Kanoff and not to believe me.

At the trial, however, Judge Ward ordered you to search the files of the Commission for an April, 1971 trial balance. As a result of this search you produced two copies of the April, 1971 trial balances. The Commission attorneys told Judge Ward that these trial balances had been located in the files of George W. Brandt, Jr., a former Commission

attorney. It appears from the testimony and evidence presented at the trial that I submitted an April, 1971 trial balance sometime in May, 1971, an April, 1971 stock record on May 20, 1971 and that I also submitted a second copy of the April, 1971 trial balance on June 18, 1971. In the proceeding before Judge Ward you withdrew the allegation that I never submitted an April, 1971 trial balance following your production of this documentary evidence.

2) At the trial you also produced a deposit slip dated January 29, 1971 showing a deposit of $10,000. At the administrative hearing Bruder testified that he did not recall receiving such a deposit slip. It is clear from the initial decision that Judge Tracy assumed that I had never given Mr. Bruder such a deposit slip. The deposit slip in question which was given by me to Bruder was not produced by the Commission at the administrative hearing.

3) At the trial before Judge Ward, Kanoff testified that I was not present in his office on August 10, 1971 and that I was present but not doing business on August 12, 1971. This testimony is contrary to his testimony at the administrative hearing.

In view of these new developments, I feel it is incumbent upon you to inform both Judge Tracy and the Commission itself of these facts. I request that you write them a letter concerning these new developments and that you send a copy of that letter to either me or Mr. Taylor or both. Mr. Taylor, who represented me at the administrative hearing, did not represent me in the court action and has no knowledge

of these facts. In addition, I have not as yet discussed this matter with him as I left for Europe shortly after the end of the trial.

At this time I request that you discontinue the administrative proceeding voluntarily. I make this request in light of these new developments and also in light of the fact that prior to the commencement of the administrative proceeding the Commission offered not to hold public hearings provided that I would consent to a permanent injunction. After the notice of these hearings had been filed and served upon me the Commission repeated this offer. I note that the Commission has now obtained the relief it originally sought, i.e., a permanent injunction. I intend to appeal the decision of the U.S. District Court in that matter. Under the circumstances, I feel that an unreasonable burden has been placed upon me to continue to defendant in two seperate proceedings.

If you decide to continue with the administrative proceeding, my intention is to withdraw my request to withdraw my broker dealer registration. I have no present intertion of doing business as a broker-dealer. However, there is no purpose in my keeping a form BDW continuously on file with the Commission if you are going to refuse to act on it.

In addition, I request that you make available to me a copy of a letter delivered by hand by Mr. Bruder to me on January 14, 1971. A reading of the administrative proceeding transcript reveals that such a letter exists. However, I do not believe I saw such a letter among the

A-436

letters you showed me pursuant to an order of Judge Ward. I assume that order is still in effect. I need this letter in connection with a motion I intend to make before Judge Ward.

I am sending a copy of this letter to Mr. Taylor in order to alert him to these recent developments.

Very truly yours,

SAMUEL H. SLOAN

cc: Robert W. Taylor
160 Broadway
New York, N.Y.

A-437

IN REPLYING PLEASE QUOTE
NY-E:JMS

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
REGIONAL OFFICE
26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

December 3, 1973

Mr. Samuel H. Sloan
120 Liberty Street
New York, New York 10006

Dear Mr. Sloan:

This will acknowledge receipt of your letters of November 26, 1973. We will respond point by point to the problems which you have mentioned.

It is not the intention of the Commission to deprive you of your means of making a living. Rather, the Commission has attempted to achieve adequate protection for the investing public by obtaining compliance with the federal securities laws. The fact, as you admit, that you have never had permanent employment outside of the securities industries and do not possess the qualifications for any other type of work certainly does not justify any less stringent enforcement of the securities laws on our part.

Please be advised that while your broker-dealer withdrawal will not become effective because of the enforcement proceedings presently pending, the Commission is in no way encouraging you to remain in or re-enter the securities business. Clearly, since Sloan & Co.'s broker-dealer registration has been revoked, and you have been barred by an Initial Decision of an Administrative Law Judge, a voluntary broker-dealer withdrawal at this point is unacceptable and clearly represents an attempt to vitiate the integrity of Commission administrative proceedings.

This office has made repeated unsuccessful attempts to examine your books and records. At the last inspection on August 16, 1973, you insisted that the Commission staff leave your offices. At that time, since your books and records were neither current nor accurate, you were advised to have the necessary documents available for inspection on the following morning. However, when

staff members returned the next morning, you were not present and your books and records, therefore, were unavailable for inspection. In addition, you failed to keep two appointments with the staff of this office to discuss your firm's financial condition, and, in fact, refused to reveal any of your trading in Canadian Javelin. Rather, you "spent a week in Zurich and a week in London" and have been "enjoying" yourself "ever since". In fact, your picture post-card from Switzerland stating "just dropping you a line wishing you the best of luck in everything you do, Sam" was the only contact this office had for months. Unfortunately, at the same time the staff of the Commission has attempted to determine the extent of injury resulting to the public from your activity in Canadian Javelin. Although you feel " . . . no obligation to produce any records . . .", you are nevertheless required to maintain the same under the federal securities laws and to produce the same at reasonable times. If the Commission were compelled to regulate, based on your sense of obligation, rather than by statute, the investing public would undoubtedly suffer.

Contrary to your belief, Mr. Selvers' activities in the investigation of this matter are neither unusual nor improper. Staff attorneys are generally assigned to coordinate the investigation of matters pending in this office. It was in this capacity that Mr. Selvers, accompanied by Mr. Kanoff, an investigator, visited your office on August 16, 1973.

Although you claim to have the records that Mr. Selvers seeks, you continue to refuse to produce the same. It must be noted, however, that months have passed since you were originally requested to produce these documents. Nevertheless, at the time of the August 16 examination, these records were not available, as required, nor have they since been produced.

Moreover, you are mistaken about the circumstances surrounding Mr. Taylor's offer to submit your records to the Commission. In fact, Mr. Taylor sought this office's assistance in storing these records, so that they could be preserved as required by law. However, the Commission does not have the facilities to act as a storage depot for broker-dealers who hastily close their offices. In any event, Mr. Taylor was advised of the necessity of submitting those records sought for examination. Furthermore, on August 16, 1973, an examination of the firm's books and records indicated that they were not in compliance with the rules. Indeed, Mr. Taylor, on that date, volunteered to verify that this was the case. In the months that followed, Mr. Taylor was contacted on numerous occasions in order

to arrange a meeting between you and the staff to discuss your books and records. Such a meeting, of course, never occurred.

You are laboring under a misconception regarding possible criminal proceedings based on contempt of the preliminary injunction entered against you on June 24, 1971. At no time has any member of the staff of the Commission threatened to commence criminal proceedings, if you do not consent to a permanent injunction. In fact, one action has nothing to do with the other. Moreover, the only time that criminal prosecution was mentioned to you was in the context of apprising you of your constitutional rights on August 16, 1973. This was done to advise you that anything you said could be used against you, not only in pending civil and administrative actions, but in possible future criminal actions as well.

Furthermore, Mr. Selvers properly refused your request that the Commission stipulate not to bring criminal proceedings in exchange for the production of Sloan & Co.'s books and records, as Mr. Selvers lacked such authority.

Your position regarding the maintenance of the firm's books and records is noted. However, since you are required by law to maintain current and accurate books and records, the Commission does not have the authority to absolve you of this duty.

You cannot "justify from an economic point of view" the filing of the Form X-17a-5 report. This, too, is required by law. This certified filing is significant in that it advises the Commission of your firm's financial condition and indicates any outstanding obligations the firm may have, not only to its customers but also to other broker-dealers. The necessity of such a filing, especially with respect to a firm in poor financial condition, should be obvious. Again, we are not in a position to relieve you of your statutory responsibility.

The present actions pending against the firm and you are not intended to prevent you from challenging the Commission's authority. Rather, they are a consequence of your repeated violations of the federal securities laws. The federal securities laws were enacted to insure adequate protection to the investing public and to insure

the sound financial condition of all broker-dealers. It is to this end that the Commission has commenced enforcement proceedings against Sloan & Co. and you, as its sole proprietor.

With respect to the requests that you have directed to William D. Moran, Esq. Regional Administrator, please be advised that what you seek has either already been denied by a decision of the Honorable Robert J. Ward, or is improper, or need not have been requested in the first instance.

At this time, we wish to inform you that your books and records are still demanded for examination. If you have any questions regarding this matter, please feel free to contact Mr. Selvers at 212-264-1675.

Very truly yours,

WILLIAM D. MORAN
Regional Administrator

by Thomas R. Beirne

Thomas R. Beirne
Chief Attorney, Br. #3

cc:
Hon. Robert J. Ward
United States District Judge
United States District Court
Southern District of New York
United States Court House
Foley Square
New York, New York 10007

A-441 1270 3-3680-1

IN REPLYING PLEASE QUOTE

NY-E:JMS R/A

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
REGIONAL OFFICE
26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

RECEIVED
OFFICE OF THE SECRETARY
MAR 22 1974

March 15, 1974

RECD - S.E.C.
MAR 22 1974

Hon. George A. Fitzsimmons
Secretary
Securities and Exchange Commission
500 North Capitol Street
Washington, D.C. 20549

Re: In the Matter of Samuel H. Sloan & Co.
Administrative Proceeding File No. 3-3680

Dear Mr. Fitzsimmons:

This is in response to Mr. Sloan's letter dated February 27, 1974 of which this office received a carbon copy. For the reasons stated below, this office opposes Mr. Sloan's request that his letter be included in the official record of the above-referenced administrative proceeding.

As is readily apparent from the enclosures to Mr. Sloan's letter, this office has continually responded in a detailed fashion to all of Mr. Sloan's previous grievances. However, we will again briefly respond.

From the very outset, it is obvious that Mr. Sloan labors under misconceptions regarding the facts and circumstances in this matter. Mr. Sloan, on February 27, 1974 in his letter to the Secretary, indicated that Judge Ward denied his motion for discovery in an injunctive action brought by the Commission and tried by the staff of this office. This much is true, but Sloan further contends that Judge Ward stated that he should direct his inquiry regarding discovery to the Commission. This is not correct. Judge Ward unequivocally refused Mr. Sloan's request for discovery. The Judge did indicate that if there were any improper conduct on the part of a Commission attorney in the

administrative proceeding, information with respect to such a charge should be presented to the Commission. Mr. Sloan chose instead to pursue his inquiry regarding discovery with the Commission, even after the Judge ruled on the matter.

In a letter dated December 3, 1973, this office, acting in compliance with Judge Ward's decision regarding materials which had been sought, stated " . . . what you seek has either already been denied by a decision by the Hon. Robert J. Ward, or is improper or need not have been requested in the first instance . . . ." This response was based on Judge Ward's decision denying Sloan's motion for discovery. If Mr. Sloan has any grievance, it is certainly not with the Commission's staff, which acted in accordance with the Court's ruling.

This office, during the course of the injunctive action, complied with each and every request and order of Judge Ward. At no time did the Judge indicate any displeasure with the Commission's staff regarding the same. Mr. Sloan complains that the Commission, for example, did not produce an April, 1971 stock record as ordered by Judge Ward. In addition, he indicated that he found these and other documents relating to April, 1971 on the plaintiff's table in the courtroom and that he offered these documents into evidence. Such was not the case.

The April, 1971 trial balance, supporting schedules and stock record were introduced as Commission Exhibits Nos. 32, 33, and 34 to prove that by Sloan's own admission they were neither made timely nor sufficiently accurate to allow a capital computation to be made. In fact, it was proven that Sloan did not provide this office with sufficient information from which a capital analysis could have been made, until June 18, 1971, one day after the complaint in the injunctive action was filed.

Moreover, Mr. Sloan states that the Commission refused to give him a copy of a deposition of Mr. Joseph Iny. Again, Mr. Sloan is wrong. A reading of the record will prove that Mr. Selvers complied with Judge Ward's order and turned over a copy of the deposition. Further, it should be noted that Mr. Iny was not a Commission witness.

Sloan continually attempts to cloud the true issue involving a $10,000 deposit in the firm's account. Mr. Sloan claims that the $10,000 deposit would be significant to his case. However, it should be noted that at no time has the deposit of these funds ever been questioned. Rather, the issue has been the source of these funds, and whether they should be included in the firm's capital. More particularly, it is interesting to note that on three different occasions Sloan offered sworn testimony as to the source of these funds. Each time he contradicted his previous testimony; first, Sloan claimed the funds came from his mother, next Sloan claimed that the funds came from his business, and finally, when the Commission was able to independently verify the source and confront Sloan with this information, Sloan admitted that these funds had in fact, come fron an individual by the name of Joseph Iny. Clearly, the actual deposit is totally irrelevant and the Commission should not be misled by such a specious argument.

Moreover, Mr. Sloan charges that an attempt was made to "hide evidence of the existence" of a meeting on July 28, 1971 at which time it was agreed that Mr. Sloan would be allowed to make liquidating transactions but assume no new business. Again, Mr. Sloan is incorrect, for at the administrative proceeding, the Division on its direct case, introduced evidence to establish that such a meeting did in fact exist. The Commission, at the trial of the injunctive action, again offered to stipulate to the facts surrounding this meeting. A reading of the records in these matters will indicate that Sloan's claim is preposterous.

Further, Mr. Sloan objects to the Commission's "tactic" of proceeding both administratively and civilly. Clearly, the Commission's action was proper within the purview of the securities acts. Moreover, Mr. Sloan's claim that the Commission delayed the court action is patently false. Each and every delay both in the administrative, as well as civil realm, occurred as a result of the defense's inability or unwillingness to go forward.

While Sloan requests that his letter be included as part of the record, he neglects to volunteer a number of relevant matters. It should be noted that the Commission proved and Judge Ward incorporated in his findings of fact in issuing a permanent

injunction, additional books and records and net capital violations which occurred in 1973. As a result, it should be evident that Sloan's violations extended from his initial filing until the date he was compelled to cease doing business in 1973.

Mr. Sloan's wild accusations regarding Commission investigators, attorneys and assistant regional administrators, need not be dignified by a detailed response. Members of the Commission's staff have at all times conducted themselves in a proper and ethical manner, in accordance with the Code of Professional Responsibility.

In requesting that the Commission discontinue the administrative proceeding against him, Mr. Sloan conveniently overlooks the fact that the overwhelming majority of the evidence again him remains uncontroverted and therefore admitted. Moreover, Sloan's plea that the Commission discontinue the civil action after a hearing on the merits resulted in the issuance of the judgment for permanent injunction, is unsupported by anything more than disappointment in the result reached by the Court.

The Division strenuously objects to the inclusion of Sloan's letter in the record as, in large part, the statements contained therein are neither accurate nor relevant.

Very truly yours,

WILLIAM D. MORAN
Regional Administrator

by Thomas R. Beirne

Thomas R. Beirne
Chief Attorney, Br. #3

cc:
Hon. Ralph Tracy
Administrative Law Judge
Securities and Exchange Commission
11th & L Streets, N.W.
Washington, D.C. 20005

Samuel H. Sloan
120 Liberty Street
New York, New York

A-445 1274 3-3680-1

RECEIVED
THE SECRETARY R/A

Samuel H. Sloan
120 Liberty St.
New York, N.Y. 10006
April 7, 1974

Hon. George A. Fitzsimmons
Secretary
Securities and Exchange Commission
500 North Capitol St.
Washington, D.C. 20549

Re: In the Matter of
Samuel H. Sloan & Co.
Administrative Proceeding File #3-3680

Dear Mr. Fitzsimmons:

This is in response to a letter of the Commission signed by Thomas R. Beirne dated March 15, 1974 which letter was mailed in reply to my letter dated February 27, 1974. In my letter I chose to deal in summary form with various grievances I have with the Commission. The reason I have done so is that with a few exceptions each and every point I have made can be documented by material already before the U.S. District Court for the Southern District of New York or in the hands of the Commission. I do not desire to submit the mass of paper necessary to prove my various allegations but if necessary I will do so. I note that the letter of March 15, 1974 contains a reply to only a small portions of the claims I have made. In the words of Mr. Beirne, the remainder of my claims need not be dignified by a detailed response. This is typical of the attitude of the legal staff of the Commission. When faced with a question to which they have no good answer they merely start making vague references to the dignity and integrity of the Commission. I submit that my claims with regard to improprieties on the part of the Commission's legal staff are sufficiently detailed to require a response. Everything I have said is supported by the record before the U.S. District Court. My claims with respect to George Brandt are in large part supported by a memorandum of law submitted by the Commission on June 18, 1971 and by the transcript of the record at the trial. My claim with respect to Mr. Rashes is substantiated by the administrative proceeding transcript presently before the Commission. My claims with respect to Mr. Beirne are demonstrated by the record before the Court and by the correspondence included in my letter of February 27, 1974. As to Mr. Selvers, Mr. Kanoff himself testified with regard to the bulk of the claims I have made concerning him. With regard to Mr. Nortman I refer to the memorandum of law dated June 18, 1971, the trancript of the hearing of June 23, 1971, and to Mr. Nortman's conduct at the trial before Judge Ward. I also note that Mr. Nortman has still failed to account for the $20 which I gave him.

72

With regard to the reply by the legal staff of the Commissiondated March 15, 1974 I would like to point out that this letter is nothing more than an attempt to further obscure the questions at issue. The Commission has always maintained that it has no obligation to volunteer any exculpatory material. In the instant case it was necessary for me to obtain a court order so that I could see certain materials which I had sought diligently. When the material was produced the Commission immediately withdrew two allegations regarding the April, 1971 trial balance. As I have previously noted, the Commission still has not withdrawn these identical allegations with respect to the administrative proceeding.

With regard to the April, 1971 trial balance the record at the Court established that I had given the Commission the April, 1971 trial balance on two separate occasions. The first appears to have been on May 20, 1971 and the second was on June 18, 1971. The uncertainty with regard to the first date lies in the fact that the reception room at the Commission failed to date stamp the April, 1971 trial balance when it was first submitted. However, it appears that this trial balance must have been submitted in the same bundle of documents as the stock record which was date stamped May 20, 1971. What Mr. Beirne is referring to in paragraph 3 of page 2 of his letter is the fact that the trial balance which was submitted on June 18, 1971 was incomplete in that it lacked the carry forward figures from the previous month. These carry forward figures were included in the March, 1971 trial balance which I had previously submitted. Also the stock record only showed the trading positions long and short. However, the trial balance and stock record submitted on May 20, 1971 was complete. It is specifically these documents which were withheld in defiance of the order of Judge Ward. Later, after I found them sitting on the plaintiff's table, these documents were introduced as defendant's Exhibit R. In any event, the April trial balance was produced by the Commission after Kanoff had completed his testimony in which he testified that the Commission had never received the April, 1971 trial balance. As I have previously noted, Kanoff testified the same way at the Administrative hearing and the Commission had made the false representation that it never received the April, 1971 trial balance in numerous papers it has filed. It should also be noted that while the complaint for injunctive relief was filed on June 17, 1971, it was not served upon the defendant until June 18, 1971.

With regard to the deposition of Joseph Iny it should be stated for the sake of clarity that there is more than one deposition in question. Mr. Selvers did turn over a deposition dated June 23, 1971. However, other deposition or depositions given by Joe Iny which were taken in the confidentiality of the offices of the Commission have never been provided to me. Judge Ward denied my request for them

and I intend to take up that matter on appeal from the decision of the U.S. District Court.

With regard to the deposition dated June 23, 1971 it is true that it was given to me on the third day of trial pursuant to an order by Judge Ward. However, the reason it was necessary for me to obtain such an order was that Mr. Selvers refused to provide it to me voluntarily or to file it with the Court. The rules of the U.S.District Court for the Southern District of New York require that all depositions be filed on a timely basis. The conduct of the Commission was in utter disregard of the rules of the Court. The Commission did not make Iny its witness at the trial after it became clear that if it were to do so the Court would require that all prior depositions of Mr. Iny be given to me. However, Iny was a witness for the Commission at the administrative hearing.

With respect to the $10,000 I submit that it is for Judge Tracy to decide the significance of this sum of money since he has all the facts before him. Contrary to the representation contained in Mr. Beirne's letter, the Initial Decision of Judge Tracy seems to question the fact of the deposit of these funds.

With regard to the meeting of July 28, 1971 the matter in controversy is not that the meeting occurred but what was agreed to at that meeting. Significantly, the Commission appears to have lost or destroyed its own memorandum of that meeting. In the era of Watergate, I submit that the credibility of such a state of affairs deserves to be questioned.

I would also like to state that I was not compelled to cease doing business in 1973. I did, however, voluntarily stop doing business in August of 1973 even though no administrative body compelled me to stop doing business or requested that I do so.

My last point is with regard to the accuracy and relevancy of the statements in my letter of February 27, 1974. I note that the bulk of the letter remains unanswered. My contention is that I can demonstrate the accuracy of all of my statements through any forum made available to me. With regard to the members of the Commission's legal staff I ask that a procedure be made available to me similar to the grievance committee of the Bar Association. With regard to the question or relevancy I submit that it is a well established principle of law that he who seeks equity must do equity. If I can show fraud and misconduct on the part of the Commission's legal staff, and I feel I can, then both proceedings against me should be terminated. If I can do so it will, of course, reflect unfavorably upon the Commission. I am trying to give the Commission a graceful way to bow out of this situation in order to avoid a con-

frontation which now appears inevitable.

It appears to me that during the past six years, which conincides with the period which I have been in the securities industry, the Securities and Exchange Commission has usurped a substantial amount of power. I intend to appeal the decision of Judge Ward on the grounds of the constitutionality of the statute. It is my belief that this appeal has a substantial likelihood of success. I do believe there should be regulation of the securities industry, but not the heavy-handed regulation that presently exists.

Very truly yours,

Samuel H. Sloan

Samuel H. Sloan

cc: Jerome Selvers
Securities and Exchange Commission
26 Federal Plaza
New York, N.Y.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF THE
GENERAL COUNSEL

April 26, 1976

A. Daniel Fusaro, Esquire
Clerk, United States Court of Appeals
for the Second Circuit
United States Courthouse, Foley Square
New York, New York 10007

Re: Samuel H. Sloan, d/b/a Samuel H. Sloan & Company v. Securities and Exchange Commission, et al., (C.A. 2) No. 75-4087

Dear Mr. Fusaro:

Enclosed for filing in the captioned action are ten copies of a Supplemental Appendix.

I hereby certify that I have today caused a true copy of the Supplemental Appendix to be served upon the petitioner, by United States mail, first class postage prepaid, at the following address:

Mr. Samuel H. Sloan
1761 Eastburn Avenue
Apt. 5
Bronx, New York 10457

Very truly yours,

Frederick B. Wade

Frederick B. Wade
Attorney

Enclosure

cc: Mr. Samuel H. Sloan

Securities and Exchange Commission
500 North Capitol Street
Washington, D.C. 20549
Telephone: (202) 755-1286